

# **City of Hillsboro**

# **Code of Ordinances**

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Ordained and Published  
By Authority of the  
Common Council

2015

# Preface

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**D**EMOCRACY IS a government of laws. Good democracy requires not only good laws, but laws which are readily available in written form to all who are subject to them, to the public officials and police officers who must administer them and to the judges and attorneys who must interpret and apply them. It is for this reason that the Common Council of the City of Hillsboro has adopted this Code of Ordinances. This Code represents the contribution of the Common Council to the democratic and efficient administration of the government and affairs of the City of Hillsboro.

## CITY OFFICERS

<b>Mayor</b>	Greg Kubarski
<b>Alderpersons</b>	Mark Lankey Pat Moen Darrow Novy Elizabeth Parish Randall Seeley Rick Hanke Tom Hotek Garth Hitselberger
<b>City Administrator</b>	Adam Sonntag
<b>City Clerk</b>	Sheila Schraufnagel
<b>City Treasurer</b>	Lisa Johnson
<b>Chief of Police</b>	Thomas Richardson

# Adopting Ordinance

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An Ordinance Adopting and Enacting a New Code of Ordinances for the City of Hillsboro, Wisconsin; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein, Except as Herein Expressly Provided; Providing for the Manner of Amending Such Code of Ordinances; Providing a Penalty for the Violation Thereof; and Providing When This Ordinance Shall Become Effective.

The Common Council of the City of Hillsboro, Wisconsin, Do Ordain as Follows:

## **Section 1.**

The Code of Ordinances is hereby adopted and enacted as the "Code of Ordinances of the City of Hillsboro, Wisconsin," and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent Ordinances of the City passed on or before March 21, 2011, to the extent provided in Section 2 hereof.

## **Section 2.**

All provisions of the Code shall be in full force and effect from and after March 21, 2011, and all Ordinances of a general and permanent nature of the City of Hillsboro, enacted on final passage on or before March 21, 2011, and not included in such Code or recognized and continued in force by reference therein are hereby repealed from the Code after March 21, 2011, except as hereinafter provided. No resolution of the City, not specifically mentioned, is hereby repealed.

## **Section 3.**

- (a) The repeal provided for in Section 2 hereof shall not affect the following, except that some of the following provisions existing at the time of adoption may be amended by this recodification:
- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;
  - (2) Any ordinance or resolution promising or guaranteeing the payment of money for the City, or any contract or obligations assumed by the City;
  - (3) The administrative Ordinances or resolutions of the City not in conflict or inconsistent with the provisions of the Code;
  - (4) Any appropriation ordinance or resolution;
  - (5) Any right or franchise granted by the Common Council to any person, firm or corporation;

- (6) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the City;
  - (7) Any ordinance or resolution establishing the prescribing of street grades of any streets in the City;
  - (8) Any ordinance or resolution providing for local improvements or assessing taxes or special assessments therefore;
  - (9) Any ordinance or resolution dedicating or accepting any plat or subdivision in the City;
  - (10) Any ordinance annexing property to the City;
  - (11) Any ordinance or resolution regulating the erection, alteration, repair, demolition, moving or removal of buildings or other structures, except that these ordinances have been amended as part of this recodification;
  - (12) Zoning ordinances; one- and two-family dwelling building code; and any other building codes except that these ordinances have been amended as part of this recodification.
  - (13) Charter ordinances.
  - (14) The issuance of corporate bonds and notes of the City of whatever name or description.
  - (15) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (b) Nor shall the repeal be construed to revive any ordinance or part of an ordinance that has been repealed by a subsequent ordinance which is repealed by this ordinance.

#### **Section 4.**

A copy of the Code shall be kept on file in the office of the City Clerk, preserved in loose-leaf form, or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk or someone authorized by the City Clerk, to insert in their designated places all amendments, ordinances or resolutions which indicate the intention of the Common Council to make the same a part of the Code when the same have been printed or reprinted in page form, and to extract from the Code all provisions which may be repealed from time to time by the Common Council. This copy of the Code shall be available for all persons desiring to examine it.

#### **Section 5.**

All ordinances or parts in conflict herewith are, to the extent of such conflict, hereby repealed.

**Section 6.**

This ordinance shall become effective on March 21, 2011.

Passed, Approved and Adopted by the Common Council on This 21st Day of March, 2011, Pursuant to Section 66.035, Wis. Stats.

Attest:



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Mayor



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City Clerk

# Open Meeting Law Guide

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## General Requirements

- (a) Wisconsin's Open Meeting Law provides that all meetings of governmental bodies shall be open to all citizens at all times. Sec. 19.81(2), Wis. Stats.
- (b) Meetings of local governing bodies or their subunits must be held in places reasonably accessible to the public.
- (c) Meetings are open to all members of the public unless specifically provided otherwise by law.
- (d) When members of a governmental body gather in sufficient numbers to compose a quorum, that meeting is presumed to be convened for the purpose of conducting official business. Such a meeting is in violation of The Open Meeting Law if proper notice was not given and the meeting is not open to the public. Sec. 19.82(2), Wis. Stats.
- (e) The Open Meeting Law also applies when members of a governing body, or committee thereof, engage in business of that body and when the number of members present is potentially sufficient to determine the governing body's course of action regarding the proposal discussed [State vs. Showers, No. 85-471 (June 15, 1987)].

## Public Notice

- (a) **Who Must Receive Notice.** For any meeting, the presiding officer, or his/her designee, shall give notice to the official newspaper and to any other members of the news media who have filed a written request to receive such notices, or if neither exists, in a manner likely to give notice to the public. Notice must also be given as required by any other state statutes.
- (b) **Construction of Notice.** The notice for the meeting shall include:
  - (1) The time, date and place of the meeting, and
  - (2) The subject matter of the meeting, including subject matter to be considered in closed session.
  - (3) The governmental body may discuss and, if urgent, act upon matters which were not specifically referred to in the agenda where the agenda contains a general item, such as "miscellaneous business." Where the presiding officer has specific knowledge that matters may come before the body, they should be included on the agenda.
- (c) **Time for Notice.** Notice must be given at least twenty-four (24) hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given. In no case may notice be provided less than two (2) hours in advance of the meeting. Sec. 19.84(3), Wis. Stats.

- (d) **Committees and Subunits Exemption to Notice Requirement.** A legally constituted subunit of a parent government body may conduct a meeting during the recess of the governing body's meeting or immediately after the lawful meeting to act or deliberate upon a matter which was the subject of that meeting. For this exemption to apply, the presiding officer must publicly announce the time, place and subject matter of the subunit's meeting in advance at the meeting of the governing body.

## **Procedure for Closed Sessions.**

- (e) Required notice must be given if the presiding officer or his/her designee knows that a closed session is being contemplated. Notice is required regardless of whether a majority of members will or will not support going into closed session at the meeting. Sec. 19.84(2), Wis. Stats.
- (f) After first meeting in open session, with proper notice, a motion made and recorded, supported by majority vote, is required to close, with the vote of each member recorded in the minutes. Sec. 19.85(1), Wis. Stats.
- (g) If the motion to go into closed session is carried, the presiding officer shall announce to those present at the meeting (to be recorded in the minutes) the nature of the business to be considered in the closed session and the specific exemption(s) relied upon in Sec. 19.85, Wis. Stats., under which the closed session is permitted.
- (h) Only matters contained in the presiding officer's announcement of the closed session may be considered during the closed session.
- (i) An open session, with adequate notice, must precede a closed session, even where it was decided at a prior open session to go into a closed session at a subsequent meeting.
- (j) A governmental body may vote to go into closed session at a properly convened open session, for a permitted purpose, where specific notice of intent to consider going into closed session was not included on the agenda at the time notice of the open session was given. However, such procedure requires that the presiding officer or his/her designee did not contemplate or have knowledge that any of the other members contemplated a closed session at the time notice of the agenda was given.

## **Specific Exemptions Allowing Closed Sessions**

- (a) Sec. 19.85(1)(a), Wis. Stats., creates an exemption for governmental bodies deliberating after quasi judicial trials or hearings. However, boards of review cannot rely on this exemption, for Sec. 70.47(2m), Wis. Stats., requires all board of review meetings to be held in open session.
- (b) Sec. 19.85(1)(b), Wis. Stats., is a limited exception to the Open Meeting Law allowing the use of a closed session when a governmental body is considering the demotion, dismissal, licensing, discipline or tenure of a public employee or a person licensed by a board or

commission. This exception permits preliminary discussion and investigation without the necessity of providing actual notice to the individual involved. However, before any evidentiary hearing can be conducted or formal action taken, notice must be given to the person involved so that he or she can exercise his or her right to request an open session for those purposes.

- (c) Sec. 19.85(1)(c), Wis. Stats., sanctions the use of closed sessions where governmental bodies are considering employment, promotion, compensation or performance evaluation of any public employee. Governmental bodies should exercise caution when considering performance to avoid discussing matters that are covered by Sec. 19.85(1)(b), Wis. Stats.
- (d) Sec. 19.85(1)(c), Wis. Stats., permits the use of closed sessions when applications for parole or probation are being considered, or when crime detection or prevention strategy is to be discussed.
- (e) Sec. 19.85(1)(e), Wis. Stats., allows closed sessions for the purpose of deliberating or negotiating the purchase of public properties, the investing of public funds, or the conducting of other specified public business, as long as competitive or bargaining reasons require a closed session. Under this exception, a governmental body could meet in closed session for the purpose of forming negotiation strategies, although the body must give notice that an open session will be held for the purpose of taking a vote to convene in closed session for the purpose of discussing labor negotiation strategies.
- (f) Discussions by governmental bodies considering the financial, medical, social or personal histories or disciplinary data of specific persons which, if conducted in public, would have a "substantial adverse effect upon the reputation of any person referred to" may be held in closed session under Sec. 19.85(1)(f), Wis. Stats. However, this exemption is unavailable where Sec. 19.85(1)(b), Wis. Stats., is applicable.
- (g) Sec. 19.85(1)(g), Wis. Stats., allows a governmental body to confer with its legal counsel in closed session for the purpose of obtaining oral or written advice concerning strategy to be adopted by the body with respect to present and prospective litigation directly involving the governmental body.
- (h) Closed sessions may be utilized by governmental bodies to consider requests for confidential written advice from ethics boards under Sec. 19.85(1)(h), Wis. Stats.

## **Limitations on Closed Sessions**

- (a) Sec. 19:85(2), Wis. Stats., makes it impermissible for a governmental body to reconvene in open session within twelve (12) hours after a closed session, unless public notice of the subsequent open session was given at the same time and in the same manner as was required for the original open session.
- (b) Final ratification or approval of a collective bargaining agreement is required to be in open session under Sec. 19.85(3), Wis. Stats. However, a governmental body can vote to preliminarily approve bargaining proposals in closed session, in order to reach a consensus, as long as final ratification occurs in open session.



## **Ballots, Votes and Records**

- (a) Unless provided elsewhere by statute, no secret ballot may be utilized by a governmental body to determine any election or decision, except the election of the officers of such body. This narrow exception does not permit the use of secret ballots to elect members of committees, officers of the governmental units such as department heads, or fill vacancies on the body itself.
- (b) Any member may require the ascertainment and recording of each vote.
- (c) Records of motions and roll-call votes must be preserved and open for public inspection.

## **Use of Equipment in Meeting**

- (a) A governmental unit must make a reasonable effort to accommodate the media's equipment.
- (b) Any person may record, film or photograph a meeting in open session, provided that the use of this equipment does not interfere with the conduct of the meeting(s).
- (c) A member of a governmental body does not have the right to tape record a closed session of the Common Council.

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## Article I.



# TITLE 1

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## General Provisions

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# Title 1 - Chapter 1

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## Use and Construction of Code of Ordinances

### Section 1.1.1 Title of Code; Citation.

These collected Ordinances shall be known and referred to as the "Code of Ordinances, City of Hillsboro, Wisconsin." References to the Code of Ordinances, City of Hillsboro, Wisconsin, shall be cited as follows (sample): "Section 2.1.1, Code of Ordinances, City of Hillsboro, Wisconsin."

### Section 1.1.2 Principles of Construction.

The following rules or meanings shall be applied in the construction and interpretation of ordinances codified in this Code of Ordinances unless such application would be clearly inconsistent with the plain meaning or intent of the ordinances:

- (a) **Acts by Agents.** When an ordinance requires an act be done by a person which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.
- (b) **City.** The term "City" shall mean the City of Hillsboro, Vernon County, Wisconsin.
- (c) **Code and Code of Ordinances.** The words, "Codes," "Code of Ordinances" and "Municipal Code" when used in any section of this Code shall refer to this Code of Ordinances of the City of Hillsboro unless the context of the section clearly indicates otherwise.
- (d) **Computation of Time.** In computing any period of time prescribed or allowed by these Ordinances, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven (7) days, Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this Section, "legal holiday" means any statewide legal holiday specified by state law.
- (e) **Fine.** The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.
- (f) **Gender.** Use has been made of masculine pronouns in these Ordinances solely for the sake of brevity. Unless specifically stated to the contrary, this Code of Ordinances is gender neutral and words in these Ordinances referring to the masculine gender shall also be construed to apply to females, and vice versa.

- (g) **General Rule.** All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the Ordinances.
- (h) **Joint Authority.** All words purporting to give a joint authority to three (3) or more City officers or employees shall be construed as giving such authority to a majority of such officers or other persons.
- (i) **Officers.** The term "officers" shall refer solely to local offices created by state statute.
- (j) **Officials.** The term "officials" shall mean all City officers and employees.
- (k) **Person.** The word "person" shall mean any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.
- (l) **Repeal.** When any ordinance having the effect of repealing a prior ordinance is itself repealed, such repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.
- (m) **Singular and Plural.** Every word in these Ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these Ordinances referring to a plural number shall also be construed to apply to one (1) person or thing.
- (n) **Tense.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- (o) **Wisconsin Statutes.** The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these Ordinances, the Wisconsin Statutes for the year 1997-98, as amended from time to time.
- (p) **Wisconsin Administrative Code.** The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Adm. Code" shall mean the Wisconsin Administrative Code as of the adoption of this Code, as amended or renumbered from time to time.

### **Section 1.1.3 Conflict of Provisions.**

- (a) If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.
- (b) If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

### **Section 1.1.4 Separability of Provisions.**

If any provision of this Code of Ordinances is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provisions of these Ordinances.

### **Section 1.1.5 Effective Date of Ordinances.**

- (a) **Code.** The Code of Ordinances, City of Hillsboro, Wisconsin shall take effect as provided by state law.
- (b) **Subsequent Ordinances.** All Ordinances passed by the Common Council subsequent to the adoption of the Code of Ordinances, except when otherwise specifically provided, shall take effect from and after their publication.

*State Law Reference:* Code of Ordinances, Sec. 66.035, Wis. Stats.

### **Section 1.1.6 Repeal of General Ordinances.**

- (a) **Ordinances Repealed.** All general Ordinances heretofore adopted by the Common Council are hereby repealed. This shall not include any Ordinances or parts of Ordinances or resolutions relating to the following subjects and not conflicting with the provisions of this Code, except that some of the following provisions may be amended by this Code of Ordinances:
  - (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;
  - (2) Any ordinance or resolution promising or guaranteeing the payment of money for the City, or any contract or obligations assumed by the City;
  - (3) The administrative Ordinances or resolutions of the City not in conflict or inconsistent with the provisions of the Code;
  - (4) Any appropriation ordinance or resolution;
  - (5) Any right or franchise granted by the Common Council to any person, firm or corporation;
  - (6) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the City;
  - (7) Any ordinance or resolution establishing or prescribing the street grades of any streets in the City;
  - (8) Any ordinance or resolution providing for local improvements or assessing taxes or special assessments therefor;
  - (9) Any ordinance or resolution dedicating or accepting any plat or subdivision in the City;
  - (10) Any ordinance annexing property to the City;
  - (11) Any ordinance or resolution regulating the erection, alteration, repair, maintenance, demolition, moving or removal of buildings or other structures;
  - (12) Zoning ordinances; dwelling building code; and other building code ordinances.
  - (13) Charter ordinances.

- (14) The issuance of corporate bonds and notes of the City of whatever name or description.
- (15) Water, electric and sewer rates, rules and regulations and sewer and water main construction.
- (b) **Effect of Repeals.** The repeal or amendment of any provision of this Code or of any other ordinance or resolution of the Common Council shall not:
  - (1) Affect any rights, privileges, obligations or liabilities which were acquired or incurred or which had accrued under the repealed or amended provision, unless the City has expressly reserved the right to revoke such right, privilege, obligation or liability.
  - (2) Affect any offense, penalty or forfeiture, or prosecution for any offense, or levy of any penalty or forfeiture which has arisen prior to the repeal or amendment of the relevant provision of any ordinance or resolution. The preceding sentence shall not preclude the application of a lesser penalty or forfeiture if the new amending or repealing provision contains such a lesser penalty or forfeiture. The procedure for prosecution of any violations of Ordinances repealed or amended shall be conducted according to the procedure set forth in the new amending or repealing provision or other procedure currently in effect.

### **Section 1.1.7 General Penalty.**

- (a) **General Penalty.** Except where a penalty is provided elsewhere in this Code of Ordinances, any person who shall violate any of the provisions of this Code shall upon conviction of such violation, be subject to a penalty, which shall be as follows:
  - (1) **First Offense - Penalty.** Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00), together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.
  - (2) **Second Offense - Penalty.** Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one year shall upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00) for each such offense, together with costs of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.
- (b) **Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the City from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

- (c) **Other Remedies.** The City shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.
- (d) **Court Authority to Impose Alternative Juvenile Dispositions and Sanctions.**
  - (1) For a juvenile adjudged to have violated an ordinance, a court is authorized to impose any of the dispositions listed in Secs. 938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes and this Section.
  - (2) For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under Secs. 938.343 or 938.344, Wis. Stats., the municipal court is authorized to impose any of the sanctions listed in Sec. 938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes.
  - (3) This Section is enacted under the authority of Sec. 938.17(2)(cm), Wis. Stats.
- (e) **Juvenile Disposition Alternatives for Alcohol/Drug Offenses**
  - (1) If a juvenile is found to have engaged in underage drinking of alcohol, drinking of alcohol on school premises or at a school sponsored activity, falsifying proof of age, possessing drug paraphernalia, delivery of drug paraphernalia to a minor in violation of City ordinances, the Court may order any of the following:
    - a. A forfeiture;
    - b. Suspension or revocation of the juvenile's driver's license;
    - c. Participation in a supervised work program;
  - (2) After ordering any of the above penalties, the Court may, with the juvenile's agreement, enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed and may require the juvenile to do any of the following:
    - a. Submit to an Alcohol or Other Drug Abuse (AODA) assessment;
    - b. Participate in an outpatient AODA treatment program if an AODA assessment recommends treatment;
    - c. Participate in an AODA education program.
  - (3) In addition to the dispositions listed above, the Court may order a juvenile to participate in a teen court program if the following conditions are satisfied:
    - a. The chief judge of the judicial administrative district has approved a teen court program established in juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;
    - b. The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present;
    - c. The juvenile has not successfully completed participation in a teen court program during the two (2) years before the date of the alleged violation.
  - (4) If the Court finds that a juvenile's parent or guardian is unable to provide or refuses to provide a court-ordered AODA services for juvenile through his or her health insurance or other third (3rd) party payments, the Court may order the parent or health insurer to pay.

- (5) If payment is not attainable as described in Subsection (e)(3) above, the Court may order the municipality to pay for any AODA services so ordered.
- (f) **Dispositional Alternatives for Other Ordinance Violations.** The Court may impose one (1) or more of the following dispositional alternatives against a juvenile found to have violated a municipal ordinance, for which no penalty is otherwise provided, as follows:
- (1) Counseling for the juvenile and/or the parent or guardian;
  - (2) A forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing the same violation.
  - (3) If the forfeiture is for a violation that is only applicable to a juvenile, the maximum forfeiture amount is Fifty Dollars (\$50.00) plus costs;
  - (4) Suspend a fishing, hunting or driving license from ninety (90) to five (5) years for failure to pay the forfeiture;
  - (5) Order the juvenile to participate in a supervised work program or other community service work;
  - (6) Order participation in an AODA assessment, an outpatient AODA treatment or an AODA education program;
  - (7) Order participation in a pupil assistance program provided by the juvenile's school provided the juvenile's school agrees;
  - (8) In addition to the dispositions listed above, the Court may order a juvenile to participate in a teen court program if the following conditions are satisfied:
    - a. The chief judge of the judicial administrative district has approved a teen court program established in juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;
    - b. The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present;
    - c. The juvenile has not successfully completed participation in a teen court program during the two (2) years before the date of the alleged violation.
- (g) **Violation of Juvenile Dispositional Orders.** The Court may impose the following sanctions on a juvenile who has violated a City ordinance and who has violated a condition of his or her dispositional order:
- (1) Suspend the juvenile's operating privilege for a period not more than ninety (90) days;
  - (2) Detain the juvenile in his or her home or current residence for not more than thirty (30) days without electronic monitoring;
  - (3) Order not more than twenty-five (25) hours of community service work in a supervised work program.

### **Section 1.1.8 City Clerk to Maintain Copies of Documents Incorporated by Reference.**

Whenever any standard code, rule, regulation, statute or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the City Clerk shall maintain in his/her office a copy of any such material as adopted and as amended from time to time. Materials on file at the City Clerk's office shall be considered public records open to reasonable examination by any person during the office hours of the City Clerk subject to such restrictions on examination as the Clerk imposes for the preservation of the material.



# Title 1 - Chapter 2

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## Enforcement of Ordinances; Issuance of Citations

### Section 1.2.1 Method of Enforcement.

The City of Hillsboro hereby elects to use the citation method of enforcement of ordinances. All City law enforcement officers and other City personnel charged with the responsibility of enforcing the provisions of this Code of Ordinances are hereby authorized pursuant to Sec. 66.119(1)(a), Wis. Stats., to issue citations for violations of this Code of Ordinances, including ordinances for which a statutory counterpart exists.

### Section 1.2.2 Form of Citation.

Each citation shall contain the information required by state law and may contain additional information. The form of the citation is hereby prescribed as found in Sec. 66.119(1)(b), Wis. Stats., as amended, which is incorporated herein by reference.

### Section 1.2.3 Schedule of Deposits.

- (a) The schedule of cash deposits for the various ordinances for which a citation may be issued are as established according to the penalty provisions of Section 1.1.7 on the deposit schedule established by the Chief of Police and approved by the Common Council a copy of which is on file with the City Treasurer.
- (b) The State of Wisconsin Revised Uniform State Traffic Deposit Schedule, and Alcohol Beverages, Harassment and Safety Violations Deposit Schedule, and Uniform Misdemeanor Bail Schedule, and Trespass to Land Deposit Schedule, including future amendments, revisions or modifications, is adopted for all violations of state statutes adopted by this Code, and statutory counterpart ordinances adopted by this Code.
- (c) Deposits shall be made in cash, money order or certified check to the Clerk of Circuit Court who shall provide a receipt therefor.

### Section 1.2.4 Issuance of Citation.

- (a) **Law Enforcement Officer.** Any law enforcement officer may issue citations authorized under this Chapter.

- (b) **City Officials.** The following City officials may issue citations with respect to those specified ordinances which are directly related to their official responsibilities:
  - (1) Any law enforcement officer;
  - (2) Fire Chief or Fire Inspector;
  - (3) Zoning Administrator;
  - (4) Building Inspector; Plumbing Inspector; Electrical Inspector; HVAC Inspector.
- (c) **City Administrator.** The City Administrator may issue citations for any non-traffic or non-criminal violation of the ordinances of the City of Hillsboro. The City Administrator may delegate this citation authority to City employees. The City Administrator shall not have any citation authority for violations of Title 10 (traffic) or Title 11 (criminal) of the Code of Ordinances.

### **Section 1.2.5 Procedure.**

State laws which describe the procedures to be followed before, during, and after a citation is written and state laws which cities have the option of adopting with respect to procedures to be followed before, during, and after a citation is written, including provisions which relate to an alleged violator's options and procedure on default, are hereby adopted and incorporated herein by reference.

### **Section 1.2.6 Nonexclusivity.**

- (a) **Other Ordinance.** Adoption of this Chapter does not preclude the Common Council from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
- (b) **Other Remedies.** The issuance of a citation hereunder shall not preclude the City or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

# TITLE 2

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# Government and Administration

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# Title 2 - Chapter 1

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## City Government; Elections

### Section 2.1.1 City Government.

- (a) **Mayor-Council Government.** The City of Hillsboro is a body corporate and political with the powers of a municipality at common law and governed by the provisions of Chapters 62 and 66, Wis. Stats., laws amending those chapters, other acts of the legislature and the Constitution of the State of Wisconsin. The City of Hillsboro operates under the Mayor-Council form of government under Chapter 62, Wis. Stats.
- (b) **Division of Responsibilities.**
  - (1) **Legislative Branch.** The Common Council is the legislative branch of City Government. Its primary business is the passage of laws in the form of ordinances or resolutions which shall prescribe what the law shall be, not only in relation to the particular facts existing at the time, but as to all future cases arising under it. The Common Council shall establish the salaries of all officers and employees of the City, and be charged with the official management of the City's financial affairs, its budget, its revenues and the raising of funds necessary for the operation of the City.
  - (2) **Executive Branch.** The Mayor shall be the chief executive officer. The Mayor shall take care that all City ordinances and state laws are observed and enforced and that all City officers, boards, committees and commissions discharge their duties. When present, he/she shall preside at the meetings of the Common Council. The Mayor shall from time to time give the Council such information and recommend such measures as he/she may deem advantageous to the City.

*State Law Reference:* Wis. Const., Art. XI, Sec. 3.

### Section 2.1.2 Official Newspaper.

The official newspaper of the City of Hillsboro shall be designated annually at the reorganizational meeting of the City Council. All ordinances, notices and proceedings of the said City required by law to be published shall be published in the official newspaper when legal posting is not used.

*State Law Reference:* Sec. 985.06, Wis. Stats.

### **Section 2.1.3 Elections.**

- (a) **Annual City Election.** The annual City election shall be held on the first Tuesday in April or at such other date as prescribed by state law.
- (b) **Hours.**
  - (1) **General Elections.** The polls at general elections in the City shall be opened at 9:00 a.m. and closed at 8:00 p.m.
  - (2) **Notice.** Notice of all elections, stating the prescribed polling hours, shall be given by publication in the official newspaper at least ten (10) days before the election.

### **Section 2.1.4 Non-Partisan Primary for City Offices.**

Whenever three (3) or more candidates file nomination papers, candidates for elective City offices may be nominated by a non-partisan primary conducted pursuant to Sec. 8.05(4), Wis. Stats. Such candidate shall file with his/her nomination papers a declaration that he/she will qualify for the office to which he/she may be elected.

*State Law Reference:* Secs. 8.05(4) and 8.11, Wis. Stats.

### **Section 2.1.5 Election Officials.**

- (a) **Election Officials.** Pursuant to the Wisconsin Statutes, there is hereby established one (1) set of election officials to conduct all elections in the wards of the City which shall consist of seven (7) election inspectors.
- (b) **Split Shift.**
  - (1) Pursuant to sec. 7.30(1), Wis. Stats., the City Clerk may select two (2) or more sets of election officials to work at different times on Election Day, and the City Clerk may also establish different working hours for different election officials assigned to the same polling location.

### **Section 2.1.6 Aldermanic Districts.**

The City of Hillsboro is divided into four (4) aldermanic districts, as described on the map on file with the City Clerk. Such districts shall be re-drawn at least every ten (10) years in response to U.S. census data.

# Title 2 - Chapter 2

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## Mayor; Common Council

### Section 2.2.1 Common Council.

The Alderpersons of the City of Hillsboro shall constitute the Common Council. The Common Council shall be vested with all the powers of the City not specifically given some other officer, as well as those powers set forth elsewhere throughout this Code.

*State Law Reference:* Sec. 62.11, Wis. Stats.

### Section 2.2.2 Alderpersons.

- (a) **Election; Term; Number.** The City shall have eight (8) Alderpersons in addition to the Mayor, who is a member of the Common Council by virtue of his/her office as Mayor. The eight (8) Alderpersons shall constitute the Common Council. Four (4) Alderpersons shall be elected at the annual City election in odd-numbered years, and four (4) Alderpersons shall be elected in even-numbered years, all to hold office for a period of two (2) years.
- (b) **Appointment as Mayor.** An Alderperson shall be eligible for appointment as Mayor to fill an unexpired term.

*State Law Reference:* Sec. 62.09, Wis. Stats.

### Section 2.2.3 Mayor.

- (a) **Election.** The Mayor shall be elected in even-numbered years for a term of two (2) years.
- (b) **Duties.**
  - (1) The Mayor shall be the Chief Executive officer of the City. The Mayor shall take care that City ordinances and the State Statutes are observed and enforced.
  - (2) The Mayor shall, from time to time, provide the Council such information and recommend such measures as he/she may deem advantageous to the City. When present, he/she shall preside at the meetings of the Council.
  - (3) The Mayor shall have such other duties and responsibilities as are prescribed in the Wisconsin Statutes.

- (c) **Veto Power.** The Mayor shall have the veto power as to all acts of the Council except such as to which it is expressly or by necessary implications otherwise provided. All such acts shall be submitted to him/her by the City Clerk, and shall be enforced upon his/her approval, evidenced by his/her signature, or upon his/her failing to approve and disapprove within five (5) days, which fact shall be certified thereon by the City Clerk. If the Mayor disapproves, he/she shall file his/her objection with the City Clerk, who shall present it to the Council at its next regular meeting. A two-thirds (2/3) vote of all the members of the Council shall be necessary to make the act effective, notwithstanding the objection of the Mayor.
- (d) **Mayoral Appointments.**
- (1) Wherever in this Code of Ordinances the Mayor is required to appoint citizens to committees, commissions and/or boards, the Mayor shall give written notice by executive letter to the Common Council at least seven (7) days prior to the Council meeting at which such appointment shall be made. In the event the Common Council rejects a Mayor's appointment, the same name may not be submitted for the same job for a period of three (3) months after the refusal of such appointment.
  - (2) In the event a vacancy occurs in any committee, board or commission requiring the appointment of a citizen member and the Mayor does not nominate a successor thereof for a period of sixty (60) days after the vacancy occurs, the Common Council may then nominate an appointee to such position, subject to the approval of the Mayor.
  - (3) In the event the Council, by parliamentary practice, tables an appointment by the Mayor, such tabling action shall be effective for that meeting, but at the next regular meeting of the Common Council, such appointment shall be on the meeting agenda for further consideration, and the particular appointment involved may not be tabled a second time.

*State Law Reference:* Sec. 62.09(8), Wis. Stats.

## **Section 2.2.4 President of the Council.**

The Common Council at its first meeting subsequent to the regular election and qualification of new members shall, after organization, annually choose from its members a President who, in the absence of the Mayor, shall preside at meetings of the Council and, during the absence or inability of the Mayor, shall have the powers and duties of the Mayor, except that he/she shall not have power to approve an act of the Council which the Mayor has disapproved by filing objections with the City Clerk. He/she shall, when so officiating, be styled "Acting Mayor." The President of the Council shall be elected for a one (1) year term of office.

*State Law Reference:* Sec. 62.09(8)(e), Wis. Stats.



## Section 2.2.5 General Powers of the Common Council.

- (a) **General.** The Common Council shall be vested with all the powers of the City not specifically given some other officer. Except as otherwise provided by law, the Common Council shall have the management and control of the City property, finances, highways, streets, navigable waters and the public service, and shall have the power to act for the government and good order of the City, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fine, imprisonment and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.
- (b) **Acquisition and Disposal of Property.** The Common Council may acquire property, real or personal, within or without the City, for parks, libraries, historic places, recreation, beautification, streets, waterworks, sewage or waste disposal, harbors, improvement of watercourses, public grounds, vehicle parking areas and for any other public purpose; may acquire real property within or contiguous to the City, by means other than condemnation, for industrial sites; may improve and beautify the same; may construct, own, lease and maintain buildings on such property for instruction, recreation, amusement and other public purposes; and may sell and convey such City-owned property, except dedicated, platted parks.
- (c) **Acquisition of Easements and Property Rights.** Confirming all powers granted to the Common Council and in furtherance thereof, the Council is expressly authorized to acquire by gift, purchase or condemnation under Ch. 32, Wis. Stats., any and all property rights in lands or waters, including rights of access and use, negative or positive easements, restrictive covenants, covenants running with land, scenic easements and any rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public or for any public purpose, including the exercise of powers granted under Sec. 62.23, Wis. Stats.; and may sell and convey such easements or property rights when no longer needed for public use or protection.
- (d) **City Finances.** The Common Council may levy and provide for the collection of taxes and special assessments; may refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; and generally may manage the City finances. The Common Council annually reviews and approves independent audit.
- (e) **Construction of Powers.** Consistent with the purpose of giving to cities the largest measure of self-government in accordance with the spirit of the home rule amendment to the Constitution, the grants of power to the Common Council in this Section and throughout this Code of Ordinances shall be liberally construed in favor of the rights, powers and privileges of cities to promote the general welfare, peace, good order and prosperity of the City and its inhabitants.
- (f) **Vacancies.** Pursuant to Sec. 62.09(5), Wis. Stats., if any officer be incapacitated or absent for any cause, the Common Council may appoint some person to discharge his duties until he returns or such disability has ended.

**State Law Reference:** Art. XI, Sec. 3, Wis. Const.; Secs. 62.09(7) and 62.11, Wis. Stats.

## **Section 2.2.6 Standing Committees; Action on Committee Reports**

- (a) **Standing Committees.** At the reorganizational meeting of the Common Council in each year following the annual election, the Mayor shall appoint four (4) Alderpersons to each of the following committees:
  - (1) **Safety and Welfare Committee**, including: ambulance services, fire association, health, licenses, permits, police protection, and regulation.
  - (2) **Improvement and Services Committee**, including: airport, buildings maintenance, capital improvements, lake, parks, recreation, sanitation, sidewalks, street and alley maintenance, and the water and sewer utility.
  - (3) **Finance and Personnel Committee**, including; city personnel, insurance, labor, public finance, and wages.
- (b) **Committee Appointments.**
  - (1) Committee appointments shall be made pursuant to Section 2.2.3(d). The chairperson of each committee shall be designated by the Mayor. Each member shall serve as appointed unless excused by a majority of the members of the Council. All Alderpersons shall serve on at least one (1) standing committee. The Mayor shall be a voting member of each standing committee.
  - (2) The Mayor may declare the entire Council a committee of the whole for informal discussion at any meeting or for any other purpose, and shall ex officio be chairman of the same.
  - (3) The Mayor may, from time to time, appoint such special committee or committees as may deem advisable or as provided for by motion or resolution stating the number of members and object thereof to perform such duties as may be assigned to them.
- (c) **Reference and Reports**
  - (1) The Mayor may refer new business coming before the Common Council to the appropriate committee, unless otherwise referred or disposed of by motion of the Council.
  - (2) Each committee shall at the next regular Council meeting submit a report (verbal or written) on all matters referred to it unless a longer time be granted by the Council. Such report shall recommend a definite action on each item and shall be approved by a majority of the committee. Any committee may require any City officer or employee to confer with it and supply information in connection with any matter pending before it. Minority reports may be submitted.

- (3) Formal committee recommendations will be placed on the agenda for Council action only if they are submitted to the City Clerk in written form by noon of the Friday prior to the meeting at which action is requested.
- (d) **Cooperation of City Officers.** All City officers shall, upon request of the chairman of the committee, confer with the committee and supply to it such information as may be requested in connection with any matter pending before the committee.

## Section 2.2.7 Internal Powers of the Council.

The Common Council has the power to preserve order at its meetings, compel attendance of Alderpersons and punish nonattendance. The Common Council shall be judge of the election and qualification of its members.

*State Law Reference:* Sec. 62.11, Wis. Stats.

## Section 2.2.8 Compensation.

- (a) **Salary compensation.** The Mayor's annual salary shall be \$2,500.00 and an alderperson's annual salary shall be \$1,050.00. Annual salaries shall be payable in equal monthly installments at the end of each quarter.
- (b) **Per diem compensation.** In addition to the annual salaries, the mayor and alderpersons shall be entitled to per diem compensation for each Common Council Meeting and each Committee of the Whole meeting attended. The Mayor shall receive a per diem of \$104.17 and an alderperson shall receive a per diem of \$43.75 for each such meeting attended. For purposes of this paragraph, "attended" shall mean being present at the meeting for more than half the duration of the meeting as noted by the minutes of the meeting. Per diem compensation shall be payable quarterly.

*State Law Reference:* Sec. 62.09(6), Wis. Stats.

## Section 2.2.9 Meetings of the Council.

- (a) **Annual Organization Meeting.** Following a regular City election, the Common Council shall meet on the third Tuesday of April.
- (b) **Meetings.** Regular meetings of the Common Council shall be held on the third Monday of each calendar month, at 7:00 p.m. Any regular meeting falling on a legal holiday shall be rescheduled or cancelled by a majority vote of those present at the meeting immediately prior to the meeting falling on a legal holiday. All meetings of the Common Council, including special and adjourned meetings shall be held in the Hillsboro City Hall, unless otherwise noticed.

*State Law Reference:* Sec. 62.11(2), Wis. Stats.

## **Section 2.2.10 Special Meetings.**

Special meetings may be called by the Mayor upon written notice of the time and purpose thereof to each member of the Council delivered to him/her personally or left at his usual place of abode at least six (6) hours before the meeting. The City Clerk shall cause an affidavit of service of such notice to be filed in his/her office prior to the time fixed for such special meetings. Special meetings shall comply with the notice provisions of the Wisconsin Open Meeting Law. In addition, a special meeting may be called by a written request signed by two (2) Alderpersons, which written notice for said special meeting shall be delivered to every member of the Council and the Mayor personally, or left at or mailed to their abode at least twenty-four (24) hours before said meeting being called. If written consent is obtained, it shall be filed with the City Clerk prior to the beginning of the meeting.

State Law Reference: Sec. 62.11(2), Wis. Stats.

## **Section 2.2.11 Open Meetings.**

Except as provided in Sec. 19.85, Wis. Stats., all meetings of the Common Council, committees thereof, and City boards, committees and commissions, shall be open to the public.

State Law Reference: Sec. 62.11(3)(c) and Ch. 19, Subch. IV, Wis. Stats.

## **Section 2.2.12 Quorum.**

(a) **Quorum.**

- (1) Two-Thirds of the members elect of the Common Council shall constitute a quorum, but a lesser number may adjourn if a majority is not present or compel the attendance of absent members. The Mayor shall not be counted in computing a quorum. No action shall be taken unless a quorum is present.
- (2) The Council may, by a majority vote of those present, adjourn from time to time to a specific date and hour.

- (b) **Procedure When Quorum Not in Attendance.** As soon as the Council shall be called to order, the City Clerk shall proceed to call the names of the members, noting who are present and who are absent and record the same in the proceedings of the Council. If it shall appear that there is not a quorum present, the fact shall be entered on the journal and the Council may adjourn, or the presiding officer or, in case of his/her absence, the City

Administrator, may issue a process to any law enforcement officer commanding him/her forthwith to summon the absentees.

*State Law Reference:* Sec. 62.11(3)(b), Wis. Stats.

### **Section 2.2.13      Presiding Officers.**

- (a) **Presiding Officer.** The Mayor shall preside over all meetings of the Common Council. In the absence of the Mayor, the President of the Council shall preside.
- (b) **Presiding Officer; Duties.** The Mayor, President of the Council, or the presiding officer, shall:
  - (1) Open the session at the time fixed for the meeting, or at the time to which adjournment may be had, by taking the chair and calling the members to order.
  - (2) Announce, at the conclusion of the roll call, the fact of the presence of a quorum, or not, as the case may be.
  - (3) Announce the business before the Council in the order in which it is to be acted upon.
  - (4) Receive and submit, in proper manner, all motions and propositions presented by members.
  - (5) Put to vote the questions which are regularly moved or which necessarily arise in the course of the proceedings, and announce the result.
  - (6) Restrain the members while engaged in debate within the rules of order.
  - (7) Enforce on all occasions the observance of order and decorum among the members.
  - (8) Inform the Council when necessary, or when referred to for that purpose, on any point of order or practice.
  - (9) Authenticate, by his/her signature, when necessary, all ordinances, resolutions, orders and proceedings of the meetings of the Council over which he/she presides.
  - (10) Preserve order and decorum; speak to points of order in preference to others, rising from his/her seat for that purpose; and decide questions of order, subject to an appeal by any member.
  - (11) Call a member to the chair, but such substitution shall not extend beyond an adjournment.
- (c) **Temporary Absence of Presiding Officer.** In the absence of the Mayor and President of the Council, one (1) of its members shall be elected to preside temporarily until the return of the Mayor or President.

*State Law Reference:* Sec. 62.09(8), Wis. Stats.

### **Section 2.2.14      Order of Business.**

- (a) **Order of Business.** At all regular meetings, the order of business shall be according to the tentative agenda prepared by the City Clerk. All matters to be considered at a regular or special Council meeting shall be submitted to the City Clerk at least twenty-four (24) hours prior to the meeting. All copies of the agenda shall be forwarded by the City Clerk to the representatives of the media have requested meeting agendas under the Open Meeting Law as part of his/her notice of such public meeting, and to members of the Council. The following order may be observed in the conduct of all meetings of the Council or an agenda as reviewed by the Council may be followed:
- (1) Call to Order by presiding officer.
  - (2) Request Confirmation of Proper Public Notice
  - (3) Roll call.
  - (4) Correcting and Approval of the minutes of the last preceding meeting or meetings. (The City Clerk shall provide a written copy of the minutes of the preceding meeting to all Alderpersons and the Mayor. The minutes shall not be read aloud. The minutes shall be approved of or amended if corrections are necessary.)
  - (5) Pre-registered Public Comments regarding Agenda Items or Future Agenda Items
  - (6) Unfinished Business from Previous City Council Meetings
  - (7) Communications of the Mayor.
  - (8) Committee Reports and Business
  - (9) New business, including the introduction of ordinances and resolutions.
  - (10) Comments and suggestions from non-registered citizens present.
  - (11) Adjournment.
- (b) **Order to be Followed.** No business shall be taken up out of order unless by unanimous consent of all Alderpersons and in the absence of any debate whatsoever.
- (c) **Citizen Comments.** The Mayor or presiding officer shall determine at what point in a meeting citizens will be called upon to speak and may impose a limit on the length of time a citizen may address the Council. A written form may be provided by the City Clerk on which citizens may register to speak at a Council meeting. The subject to be addressed and/or agenda item shall be indicated.

## **Section 2.2.15 Introduction of Ordinances.**

- (a) **Ordinances to be in Writing.** All ordinances submitted to the Council shall be in writing and be titled. Upon passage by the Council, the City Clerk shall superintend the publication of the same. Any written material introduced may be tabled for a staff report. Any member of the Council may require the reading in full of any ordinance or resolution at any time it is before the Council.
- (b) **Subject and Numbering of Ordinances.** Each ordinance shall be related to no more than one (1) subject. Amendment or repeal of ordinances shall only be accomplished if the amending or repealing ordinance contains the number and title of the ordinance to be amended or repealed, and title of amending and repealing ordinances shall reflect their purpose to amend or repeal.

(c) **Notice.**

- (1) The Common Council may take action on an ordinance only if it appears on the written agenda for the meeting at which action is requested.
- (2) Ordinances will be placed on the agenda for Council action only if they are submitted to the City Clerk in written form not later than noon on the Thursday prior to the regular or special Council meeting at which action is requested.

## **Section 2.2.16            Publication and Effect of Ordinances.**

- (a) All general ordinances of the City and all regulations imposing any penalty shall be published in the official paper of the City once within fifteen (15) days of passage and shall be immediately recorded, with the affidavit of publication, by the City Clerk in a book kept for that purpose. A printed copy of such ordinance or regulation in any book, pamphlet or newspaper and published or purporting to be published therein by direction of the Common Council shall be prima facie proof of due passage, publication and recording thereof.
- (b) All ordinances shall take effect and be in force from and after passage and publication, unless otherwise provided and published copies thereof shall have appended the date of first publication.
- (c) The City Code of Ordinances shall be kept currently to date; and upon passage of any ordinance, the Clerk shall provide for incorporation of the same into the ordinance code.

*State Law Reference:* Sec. 62.11(4), Wis. Stats.

## **Section 2.2.17            Conduct of Deliberations.**

- (a) **Roll Call.** When the presiding officer shall have called the members to order, the City Clerk shall proceed to call the roll in rotating order, noting who are present, and who are absent. If, after having gone through the call, it shall appear that a quorum is not present, the fact shall be entered in the minutes, and the members present may adjourn to a later date in the month. If they do not, the Council shall stand adjourned to the time appointed for the next regular meeting unless a special meeting is called sooner as provided by the Wisconsin Statutes or Sections 2.2.11 and 2.2.12.
- (b) **Meeting Attendance.** All members of the Common Council shall attend all Council meetings, meetings of committees to which members have been appointed, and special or adjourned meetings when duly notified thereof. A member who does not appear in answer to his name when the roll is called at any regular meeting or any special or adjourned meeting when notified thereof shall be marked absent. Any member seeking to be excused from attending any regular or special meeting must notify the Mayor, City Clerk, or City Administrator before 3:00 p.m. on the day of such meeting, explaining the

reason for his/her absence and, upon complying with this requirement, such members shall be duly excused from attending said meeting. If the absence is deemed to be a last minute emergency, members are expected to notify or cause notification to be made at the earliest possible time. An Alderperson shall be physically present at the meeting in order to vote at such meeting.

(c) **Recognition for Debate.**

(1) When a member is to speak in debate, or deliver any matter to the Council, he/she shall respectfully address himself to the presiding officer, and confine his/her remarks to the question under debate, and avoid personalities.

(2) When two (2) or more members address the presiding officer at the same time, the presiding officer shall name the member who is to speak first.

(d) **Roll Call Vote Procedure.** The ayes and nays shall be ordered upon any question at the request of any member of the Council, or the Mayor, and the City Clerk shall call the roll starting with the Alderperson according to seating order on the next call of the roll, at the same or any subsequent meeting, the Clerk shall start with the Alderperson whose name appears next on said seating order, and each subsequent call of roll shall begin with the name of the Alderperson next in seating order.

(e) **Reconsideration.** When a motion has been decided, it shall be in order for any member who voted in the majority, to move a reconsideration thereof, at the same or next succeeding meeting and the Mayor shall call for a roll call of the Alderpersons. If a majority of the members present shall be in favor of a reconsideration, the subject shall be before the Council for further action.

(f) **Motions With Preference.** During any meeting of the Common Council certain motions will have preference. In order of precedence they are;

(1) ***Motion to Adjourn.*** This motion can be made at any time and has first precedence. This is a non-debatable motion.

(2) ***Motion to Lay on the Table.*** This motion may be made when the subject matter appropriate for tabling is to be debated or discussed. This motion is a non-debatable motion.

(3) ***Motion to Call Previous Question.*** This motion may be made at any time after the debate or discussion commences related to an action item, business item, motion or question that is properly before the Common Council. This motion is a non-debatable motion. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question. The motion, if adopted, brings the Common Council to a direct vote with the first vote on any amendments, if any, and then to the main action item, business item, motion or question.

(4) ***Motion to Postpone to a Date Certain.*** This motion may be made at any time after the debate and discussion commences on an action item, business item, motion or question that is properly before the Common Council. This motion is debatable. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question. This motion must establish a date and time certain when the debate and discussion before the Common Council will continue.



The date and time established must be on a date and time for a regularly scheduled or special meeting of the Common Council.

- (5) ***Motion to a Committee.*** This motion may be made at any time after the debate and discussion commences on an action item, business item, motion or question that is properly before the Common Council. The motion is debatable. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question. This motion, if adopted, forwards the action item, business item, motion or question to a committee for further review and discussion. The committee must be a committee of the Common Council.
- (6) ***Motion to Amend or Divide the Question.*** This motion may be made at any time after debate and discussion commences on the action item, business item, motion or question properly before the Common Council. The motion is debatable. This motion, if adopted, divides the main action item, main business item, main motion or main question pursuant to the method described and adopted in the motion to divide.
- (7) ***Motion to Postpone Indefinitely.*** This motion may be made at any time after debate and discussion commences on the action item, business item, motion or question properly before the Common Council. This motion is debatable. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question.
- (8) ***Motion to Introduce a Matter Related to the Action Item, Business Item, Motion or Question.*** This motion may be made at any time after the debate and discussion commences on the action item, business item, motion or question properly before the Common Council. This motion is debatable. This motion, if adopted, expands or adds to the debate and discussion new items related to the main action item, main business item, main motion or main question pursuant to the method described and approved in the motion to introduce a matter related.
- (g) **Public Directory Votes.** No member of the Common Council shall request, at a meeting of the Common Council, a vote from the general public unless the proposed vote of the general public is so noted by the presiding officer of the meeting as strictly an advisory vote to the Council. Any vote taken by the general public at a meeting of the Common Council shall be considered by the Council only as an advisory vote and shall not be considered as a directory vote.
- (h) **Rules of Parliamentary Procedure.** The rules of parliamentary practice in *Robert's Rules of Order, (Revised 1951)*, which is hereby incorporated by reference, shall govern the proceedings of the Council in all cases to which they are applicable and in which they are not inconsistent with these rules or with the laws of the State of Wisconsin.
- (i) **Reconsideration of Questions.** It shall be in order for any member, if in the majority, to move for the reconsideration of any vote in question at the same meeting or at the next succeeding regular adjourned meeting. A motion to reconsider being put and lost shall not be renewed.
- (j) **Call for the Previous Question.** Any member desirous of terminating the debate may call the previous question when the question announced by the Mayor shall be "call the

main question." If a majority of the members present vote in the affirmative, the main question shall be put to a vote without further debate, and its effect shall be to put an end to all debate and bring the Council to a direct vote, first upon the pending amendment and then upon the main question.

- (k) **Amendment of Rules.** The rules of this Section shall not be rescinded or amended unless the proposed amendment or motion to rescind has laid over from a regular meeting, and then it shall require a vote of two-thirds (2/3) of all the members of the Council.
- (l) **Suspension of Rules.** Any of the provisions of this Section may be suspended temporarily by a recorded vote of two-thirds (2/3) of the Council members present at any meeting.

*State Law Reference:* Sec. 62.11, Wis. Stats.

## **Section 2.2.18 Procedure at Public Hearings.**

The following procedures shall be followed at public hearings, and may also be followed when citizen input is necessary during regular items of business before the Common Council:

- (a) The presiding officer shall generally call on those persons who wish to speak on the matter, or call initially on those persons who wish to speak for the proposition. Each person wishing to speak for the proposition shall give his or her name and address.
- (b) Each person speaking or initially on the matter or specifically behalf of the proposition shall be limited in time to five (5) minutes.
- (c) The presiding officer shall then call on those persons who wish to oppose the proposition if the presiding officer has first asked for only those favoring the proposition to speak.
- (d) Each such person speaking in opposition to the proposition shall give his or her name and address and shall also be limited to five (5) minutes.
- (e) Any person wishing to speak in rebuttal to any statements made may, with the permission of the presiding officer, do so, provided, however, such rebuttal statement shall be limited to three (3) minutes by any one (1) individual.
- (f) When the presiding officer in his/her discretion is satisfied that the proposition has been heard, he/she shall announce the fact that the hearing is concluded.

## **Section 2.2.19 Cooperation with Other Municipalities.**

The Common Council, on behalf of the City, may join with other villages, towns, or cities or other governmental entities in a cooperative arrangement for executing any power or duty in order to attain greater economy or efficiency, including joint employment of appointive officers and employees and joint purchasing programs.

*State Law Reference:* Secs.36.11(19), 66.0301, 66.0303, 66.0311(2), and 120.25, Wis. Stats.

## Section 2.2.20      **Municipal Court.**

- (a) **Municipal Court and Court Commission Established.** Pursuant to the authority granted by Chapter 755, Wis. Stats., there is hereby created and established a Municipal Court (the “Municipal Court”) to be designated as the “Municipal Court for the City of Hillsboro.” Said court shall become operative and function on JULY 1, 2005. In addition, there is hereby created and established a Court Commission to be designated the “Regional Center Court Commission,” (RCCC) on which the City of Hillsboro (the “Municipality”) shall be represented.
- (b) **Municipal Court Commission.** The Municipal Court Commission shall consist of six (6) members, one each appointed by the Municipal Board of the Municipality, and the seventh member to be appointed annually on a rotating basis between each of the six municipalities represented on the Regional Center Court Commission. The rotation shall commence in 2012 with the City of Elroy, followed in subsequent years by, the Village of Ontario, the Village of Kendall, the Village of Union Center, the Village of Wonewoc, and the City of Hillsboro, and shall continue to repeat in the same order. Members of the Regional Center Court Commission shall serve two-year terms starting JULY 1, 2005, however the initial appointments shall be for one or two years to allow for the staggering of terms so that no more than one-half of the members of the Commission are appointed in any year. The Municipality shall appoint, for the term of two years, one alternate member per voting member of the Commission. The Regional Center Court Commission members shall appoint a chairperson annually. The Commission shall meet as necessary to authorize employee salaries, compile and submit an annual budget to the Municipal Boards by November 1st of each year, and conduct other business as required.
- (c) **Municipal Judge.**
- (1) **Qualifications.** The **Municipal Court** shall be under the jurisdiction of and preside over by a Municipal Judge, who shall reside in the School Districts of the respective municipality, and shall have a general understanding of the general requirements of the office of Municipal Judge and shall not be an employee of the municipality, an elected or appointed official or any of their immediate family members who reside within any of the school districts of the municipality.
- (2) **Oath and Bond.** The Judge shall, after election or appointment to fill a vacancy, take and file the official oath as prescribed in 757.02(1), Wis. Stats., and at the same time execute and file an official bond in the amount of \$10,000. The Judge shall not act until the oath and bond have been filed as required by 19.01(4)(c) Wis. Stats., and the requirements of 755.03(2), Wis. Stats., have been satisfied. The Municipal Court Commission shall pay for expenses associated with obtaining the oath and bond.

- (3) **Term.** The initial position of Municipal Judge will be filled by temporary appointment pursuant to 755.01 and 8.50(4)(fm), Wis. Stats., by the Regional Center Court Commission, and the term of such Judge will expire on April 30th, 2006. The position of Municipal Judge shall then be permanently filled by special election. The Municipal Judge shall be elected at large in the spring election in even-numbered years for a term of two (2) years commencing on May 1st. All candidates for the position of Municipal Judge shall be nominated by nomination papers as provided in 8.10, Wis. Stats., and selection at a primary election if such is held as provided in 8.11 Wis. Stats. The Juneau County Clerk shall serve as filing officer for the municipality in which the candidate resides. Electors in the Municipality are eligible to vote for Municipal Judge.
    - a. (*charter ordinance #12-2010 established the 2-year term per sec. 755.02, Wis. Stats., as amended by 2009 Wis. Act 402*)
  - (4) **Vacancy.** A permanent vacancy in the office of Municipal Judge may be filled by temporary appointment of the Municipal Court Commission as provided for in 8.50(4)(fm) Wis. Stats. The office shall be permanently filled by special election in the manner provided for in said statute.
  - (5) **Salary.** The salary of the Municipal Judge shall be fixed by resolution of the Municipal Court Commission. No salary shall be paid if such Judge has not executed the official bond or official oath.
- (d) **Jurisdiction.**
- (1) The Municipal Court shall have jurisdiction over incidents occurring on or after July 1, 2005 as provided in Article VII, §14 of the Wisconsin Constitution, 755.045 and 755.05, Wis. Stats., and as otherwise provided by the laws of Wisconsin. In addition, it shall have exclusive jurisdiction over actions in the Municipality, seeking to impose forfeitures for violations of municipal ordinances, resolutions and by-laws.
  - (2) The Municipal Judge may issue civil warrants to enforce matters under the jurisdiction of the Municipal Court under 755.045(2), 66.122 and 66.123, Wis. Stats.
- (e) **Municipal Court Operations.**
- (1) **Hours.** The Municipal Court shall be open at such location and at such times as determined by the Municipal Court Commission.
  - (2) **Employees.** The Municipal Judge shall appoint such clerks and deputy clerks as are authorized by the Municipal Court Commission funded by the Municipal Board of the Municipality. The Municipal Court Commission shall fix salaries and wages for all clerks and deputy clerks. The duties for all clerks and deputy clerks shall be as determined by the Municipal Court Commission. All clerks and deputy clerks, before entering upon the duties of the office, shall take the appropriate oath and give a bond if a bond is required by the Municipal Court Commission. The Municipal Court Commission shall pay the cost of such bond. The oath and any bond shall be filed with the clerks of each municipality that is a member of the Commission.

- (3) ***Collection of Forfeitures and Costs.*** The Municipal Judge may impose punishment and sentences as provided by Chapters 800 and 938, Wis. Stats., and as provided in the ordinances of the Municipality. All forfeitures, fees, assessments, surcharges and costs shall be paid to the Municipal Court clerk within 7 days after receipt of the money by the Municipal Court.
- (f) **Contempt Authority.** The Municipal Judge may impose a forfeiture for contempt or, upon non-payment of the forfeiture and applicable assessments, a jail sentence. The Municipal Judge may impose the maximum forfeiture and maximum jail sentence allowed by Wisconsin law.

## Title 2 - Chapter 3

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# Municipal Officers and Employees

### Section 2.3.1 General Provisions.

- (a) **General Powers.** Officers of the City of Hillsboro shall have generally the powers and duties prescribed for like officers of cities, towns and villages, except as otherwise provided, and such powers and duties as are prescribed by law and except as to the Mayor, shall perform such duties as shall be required of him/her by the Council. Officers whose powers and duties are not enumerated in Chapter 62, Wis. Stats., shall have such powers and duties as are prescribed by law for like officers or as are directed by the Council.
- (b) **Rules.** All officers and departments may make the necessary rules for the conduct of their duties and incidental proceedings.
- (c) **Applicability of Ethics Statutes.** The general laws for the punishment of bribery, misdemeanors and corruption in office shall apply to City officers.
- (d) **Legal Representation.** Whenever any City official in his/her official capacity proceeded against or obliged to proceed before any civil court, board, committee or commission, to defend or maintain his/her official position, or because of some act arising out of the performance of his/her official duties, and he/she has prevailed in such proceedings, or the Council has ordered the proceedings discontinued, the Council may provide for payment to such official such sum as it sees fit, to reimburse him/her for the expenses reasonably incurred for costs and attorney's fees.

*State Law Reference:* Secs. 62.09(7) and 62.115, Wis. Stats.

### Section 2.3.2 Appointed Officials.

- (a) **Appointed Officials.** The following shall be appointed officials:

<b>Official</b>	<b>How Appointed</b>	<b>Term</b>
(1) City Administrator	Mayor, subject to confirmation by Council	Indefinite
(2) Attorney	Mayor, subject to confirmation by Council	Pleasure of Council

(3)	Clerk	Mayor, subject to confirmation by Council	Indefinite
(4)	Treasurer	Mayor, subject to confirmation by Council	Indefinite
(5)	Chief of Police	Mayor, subject to confirmation by Council	Indefinite
(6)	Water and Sewer Superintendent	Mayor, subject to confirmation by Council	Indefinite

**Time for Taking Office.** The regular term of all appointed officials shall commence with their appointment at the first regular meeting of the Common Council in May of each year; except officials appointed for indefinite terms, who shall take office upon appointment and qualification.

**Section 2.3.3 City Administrator.**

- (a) **Selection.** The City Administrator shall be hired pursuant to Section 2.3.2 on merit, based on appropriate education and experience, and shall be responsible for the administration of the ordinances and policies set forth by the Common Council.
- (b) **Chain of Command.** The City Administrator, subject to the limitations defined in resolutions and ordinances of the City and the Wisconsin Statutes, shall be the chief administrative officer of the City, responsible only to the Mayor and Common Council for the proper administration of the business affairs of the City pursuant to Wisconsin Statutes, City Ordinances, and the resolutions and directives of the Common Council. The Administrator shall be responsible for the administration of all day-to-day operations and services provided by the city government including supervision and oversight of all departments and staff, including directing the effective and efficient performance of all city employees and coordinating and expediting all city services, functions, and programs. General direction shall be provided to the Police Department, with emphasis relative to the fiscal, budgetary, and administrative matter of the Police Department.
- (c) **General Duties.** The City Administrator shall perform promptly and effectively the following general duties:
  - (1) Carry out directives of the Mayor and Common Council which require administrative implementation, reporting promptly to the Mayor and Council any difficulties encountered.
  - (2) Be responsible for the administration of all day-to-day operations of the City government, including the monitoring of all City ordinances, resolutions, Council meeting minutes and state statutes.

- (3) Establish when necessary administrative procedures to increase the effectiveness and efficiency of City government according to current practices in local government.
  - (4) Serve as ex-officio non-voting member of all boards, commissions and committees of the City, except as specified by the Common Council or Wisconsin state statutes.
  - (5) Keep informed concerning current federal, state and county legislation and administrative rules affecting the City and submit appropriate reports and recommendations thereon to the Council.
  - (6) Keep informed concerning the availability of federal, state and county funds for local programs. Assist department heads and Council in obtaining these funds under the direction of the Mayor and the Council.
  - (7) Represent the City in matters involving legislative and inter-governmental affairs submitting appropriate recommendations as needed to the Mayor and Council.
  - (8) In cooperation with the City Clerk, act as public information officer for the City with the responsibility of assuring that the news media are kept informed about the operations of the City and that all open meeting rules and regulations are followed;
  - (9) Establish and maintain procedures to facilitate communications between citizens and City government to assure that complaints, grievances, recommendations and other matters receive prompt attention by the responsible official, and to assure that all such matters are expeditiously resolved;
  - (10) Promote the economic well-being and growth of the City through public and private sector cooperation;
  - (11) Be responsible for all duties of the Zoning Administrator as defined in the Hillsboro Code of Ordinances.
  - (12) Be responsible for all aspect of the management of the Tax Incremental Districts.
  - (13) Perform such other duties as shall be assigned by the Common Council or the Mayor.
- (d) **General Responsibilities to the Common Council.** The City Administrator shall have the following general responsibilities:
- (1) Attend all meetings of the Council, unless excused by the Mayor or a majority vote of the Common Council, and at such meetings assist the Mayor and the Council as necessary with the performance of their duties.
  - (2) Attend all meetings of the standing and special committees of the Common Council if requested by the Mayor or committee chairperson, assisting committee members as necessary in the performance of their duties.
  - (3) In coordination with the Mayor, the Common Council and the City Clerk, ensure that appropriate agendas are prepared to all meetings of the Council, all Council committees, and all other appropriate committees and commissions of the City, together with such supporting material as may be required; with nothing herein being construed as to give the Administrator authority to limit or in any way prevent matters from being considered by the Council, or any of its committees and commissions.



- (4) Assist in the preparation of ordinances and resolutions as requested by the Mayor or the Council, or as needed.
- (5) Keep the Mayor and Council regularly informed about the activities of the Administrator's Office by oral or written report at regular and special meetings of the Council.
- (6) In the event that action normally requiring Council approval is necessary at a time when the Council cannot meet, the Administrator shall receive directives from the Mayor.
- (7) Perform such other responsibilities as shall be assigned by the Mayor or Council.
- (e) **General Personnel Responsibilities and Duties.** The City Administrator shall carry out promptly and effectively the following personnel related duties:
  - (1) Be responsible for the administrative direction and coordination of all employees of the City according to the established organization procedures.
  - (2) Recommend to the Council the appointment, promotion, and when necessary for the good of the City, the suspension or termination of department heads.
  - (3) In consultation with the appropriate department head, be responsible for the appointment, promotion and when necessary for the good of the City, the suspension or termination of employees below the department head level.
  - (4) Assist in the appointment and/or hiring of all non-elected officers and employees. When a vacancy occurs, the Administrator shall take such steps as are necessary to solicit or advertise for applications according to established hiring procedures, and upon completion of an administrative review, shall submit to the Personnel and Finance Committee a ranked list of applicants with an evaluation of each applicant. The list shall consist of five (5) candidates unless there are fewer than five (5) applicants for the position and then the list shall consist of all the applicants. A selection shall be made by the Finance and Personnel Committee, which shall refer it to the Common Council for final action.
  - (5) Serve as personnel officer for the City with responsibilities to see that complete and current personnel records, including specific job descriptions, for all City employees are kept; evaluate in conjunction with department heads the performance of all employees on a regular basis; recommend salary and wage scales for City employees not covered by collective bargaining agreements; develop and enforce high standards of performance by City employees; assure that City employees have proper working conditions; work closely with department heads to promptly resolve personnel problems or grievances; assure compliance with all local, state and federal laws and regulations applicable to hiring and employment practices.
  - (6) Work closely with department heads to assure that employees receive adequate opportunities for training to maintain and improve their job-related knowledge and skills and act as the approving authority for requests by department heads and City employees to attend conferences, meetings, training schools, etc.; provided that funds have been budgeted for these activities.

- (7) Be responsible for such other personnel practices and matters as shall be assigned or delegated by the Mayor or Council.
- (f) **General Budgeting and Purchasing Responsibilities and Duties.** The City Administrator shall carry out promptly and effectively the following budgeting and purchasing responsibilities:
  - (1) Be responsible for the preparation of the annual City budget, in accordance with guidelines as may be provided by the Common Council and in coordination with department heads, and pursuant to state statutes, for review and approval by the Mayor, Finance Committee and the Council.
  - (2) Administer the budget as adopted by the Council; with the authority to approve expenditures budgeted by the Council in amounts not to exceed nine thousand, nine hundred, ninety-nine dollars and ninety-nine cents (\$9,999.99).
  - (3) Report regularly to the Council on the current fiscal position of the City.
  - (4) Supervise the accounting system of the City and insure that the system employs methods in accordance with current professional accounting practices.
  - (5) Serve as the purchasing agent for the City, supervising all purchasing and contracting for supplies and services subject to the purchasing procedures established by the Council and any limitations provided by the Wisconsin Statutes.
  - (6) Be responsible for such additional budgeting and purchasing matters as shall be assigned or delegated by the Mayor or Council.
- (g) **Cooperation by and with City Administrator.** All officials and employees of the City shall cooperate with and assist the City Administrator and the City Administrator shall similarly cooperate with and assist all officials and employees of the City so that the City government shall function effectively and efficiently.
- (h) **Mayor and Council Power and Authority Retained.** This Section is not intended to limit in any way the power and authority of the Mayor or Common Council.

## Section 2.3.4 City Clerk.

- (a) **Offices of Clerk.**
  - (1) The City of Hillsboro, pursuant to Secs. 61.188, 62.09, and 66.0101, Wis. Stats., does hereby change the manner of selecting the City Clerk position and elects not to be governed by those portions of 62.09, Wis. Stats., in conflict with this Section.
  - (2) The appointed City Clerk shall hold office for an indefinite term, subject to removal as provided in Sec. 17.12, Wis. Stats.
  - (3) Annual recurring audits shall be made of the records of the Clerk with the audit to be made either by a certified public accountant or by the Municipal Accounting Division of the State Department of Revenue pursuant to Sec. 73.10(5), Wis. Stats., the designation to be made by the Common Council. (Charter Ordinance 4-94).
- (b) **Duties as Clerk.** In his/her capacity as City Clerk, the Clerk shall be responsible for performing those duties required by Sec. 62.09(11), Wis. Stats., and for the following additional duties:

- (1) Perform all election duties as required by Wisconsin Statute and keep and maintain all election records and all property used in conjunction with holding of elections;
  - (2) Publish all legal notices unless otherwise provided; file and preserve all contracts, bonds, oaths of office and other documents not required to be filed elsewhere;
  - (3) Issue all licenses required by ordinance or statute, except as otherwise provided;
  - (4) Attend meetings, take minutes and maintain files for the Common Council, and such other official boards and commissions as may be directed;
  - (5) Maintain a file on all City records, ordinances, resolutions and vouchers;
  - (6) Type and distribute reports for the Council and for federal and state agencies;
  - (7) Audit and obtain approval on claims charged against City;
  - (8) Assist the City Assessor in maintaining property assessment records;
  - (9) Administer oaths and affirmations;
  - (10) Issue licenses to various vendors in City;
  - (11) Develop and implement improved internal control and financial reporting procedures as necessary or as directed;
  - (12) File financial and other reports with various state agencies;
  - (13) File insurance claims on behalf of the City;
  - (14) Locate suppliers of goods or services and obtain quotes;
  - (15) Advertise for bids, receive them and summarize the results;
  - (16) Identify and evaluate ideas to achieve more efficient and effective operation;
  - (17) Coordinate, supervise and conduct elections;
  - (18) Confer with Mayor, City Administrator, department heads and Common Council committees about projects and problems;
  - (19) Maintain personnel files;
  - (20) Perform such other duties as may be directed by Common Council.
- (c) **Duties Prescribed By Law or Council.** The Clerk shall perform such other duties as are prescribed by State Statutes and by order of the Council. The Clerk generally shall perform, under direction of the Mayor, City Administrator, or other presiding officer of the Council, all duties pertaining to his/her office as Clerk, and shall be responsible for all the official acts of assistants.
- (d) **Bond.** The City Clerk shall execute to the City a surety company fidelity bond in an amount determined by the Common Council.

*State Law Reference:* Sec. 62.09(11), Wis. Stats.

## **Section 2.3.5 City Treasurer.**

- (a) **Offices of Treasurer.**
- (1) The City of Hillsboro, pursuant to Secs. 61.188, 62.09 and 66.0101, Wis. Stats., does hereby change the manner of selecting the City Treasurer position and elects not to be governed by those portions of 62.09, Wis. Stats., in conflict with this Section.

- (2) The appointed City Treasurer shall hold office for an indefinite term, subject to removal as provided in Sec. 17.12, Wis. Stats.
  - (3) Annual recurring audits shall be made of the records of the Treasurer with the audit to be made either by a certified public accountant or by the Municipal Accounting Division of the State Department of Revenue pursuant to Sec. 73.10(5), Wis. Stats., the designation to be made by the Common Council. (Charter Ordinance 4-94).
- (b) **Duties as Treasurer.** In his/her capacity as City Treasurer, the City Clerk-Treasurer shall be responsible for performing those duties required by Sec. 62.09(9), Wis. Stats., and for the following additional duties:
- (1) Prepare the tax roll and tax notices required by the State of Wisconsin.
  - (2) Prepare financial and bank statements;
  - (3) Maintain fiscal records for the City and serve as City Comptroller;
  - (4) Make reports to the State on assessments;
  - (5) Prepare and send invoices for services provided by municipal utilities.
  - (6) Perform record keeping, billing, collections, banking, investments, accounting and financial reporting of all City operations, including utilities;
  - (7) Collect all taxes for the City and other taxing bodies;
  - (8) Invest idle funds for maximum interest earnings;
  - (9) Prepare monthly financial report;
  - (10) Maintain payroll records and prepare payroll checks from approved employee time sheets;
  - (11) Prepare check vouchers for payment of approved claims for signature;
  - (12) Coordinate the preparation and compilation of the annual City budget;
  - (13) Make property tax settlements with the County Treasurer and turn over to school district and other taxing units their proportionate share of property tax collections;
  - (14) Issue purchase orders;
  - (15) Develop and implement improved internal control and financial reporting procedures as necessary or as directed.
- (c) **Duties Prescribed By Law or Council.** The Treasurer shall perform such other duties as are prescribed by State Statutes and by order of the Council. The Treasurer generally shall perform, under direction of the Mayor, City Administrator, or other presiding officer of the Council, all duties pertaining to his/her office as Treasurer, and shall be responsible for all the official acts of assistants.
- (d) **Bond.** The City Treasurer shall execute to the City a surety company fidelity bond in an amount determined by the Common Council.

*State Law Reference:* Sec. 62.09(9), Wis. Stats.

## **Section 2.3.6 Reserved For Future Use.**

### **Section 2.3.7 Water and Sewer Superintendent.**

- (a) **Appointment.** The Water and Sewer Superintendent shall be appointed pursuant to Section 2.3.2.
- (b) **Duties.** The Water and Sewer Superintendent shall have the following duties:
  - (1) Coordinate and supervise the operation of the Water and Sewer Utility;
  - (2) Schedule, assign and inspect the work of a crew engaged in installing, cleaning and repairing water mains, sewers, fire hydrants, manholes and valves of various sizes;
  - (3) Supervise and coordinate all activities concerned with the installation and repair of water meters;
  - (4) Handle customer complaints and resolve them to satisfaction;
  - (5) Submit monthly activity report to the Common Council;
  - (6) Make periodic inspections of pumping stations, reservoirs and other departmental facilities;
  - (7) Perform such other duties as may be directed by the City Administrator or Common Council.

### **Section 2.3.8 City Attorney.**

- (a) **Selection.** The City Attorney shall be appointed pursuant to Section 2.3.2.
- (b) **Duties.** The City Attorney shall have the following duties:
  - (1) The Attorney shall conduct all of the law business in which the City is interested, and shall serve as legal advisor to the Mayor, Common Council and officers of the City.
  - (2) He/she shall, when requested by City officers, give written legal opinions, which shall be filed with the City.
  - (3) He/she shall draft ordinances, bonds and other instruments as may be required by City officials.
  - (4) He/she may appoint an assistant, who shall have power to perform his duties and for whose acts he/she shall be responsible to the City. Such assistant shall receive no compensation from the City, unless previously provided by ordinance.
  - (5) The Common Council may employ and compensate special counsel to assist in or take charge of any matter in which the City is interested.
  - (6) The City Attorney shall perform such other duties as provided by State law and as designated by the Common Council.

***State Law Reference:*** Sec. 62.09(12), Wis. Stats.

## **Section 2.3.9 Chief of Police.**

(a) **Appointment.**

- (1) The Chief of Police shall be appointed pursuant to Section 2.3.2 and shall hold office during satisfactory performance, subject to suspension or removal pursuant to law.
- (2) The compensation to be paid the Chief of Police for his/her services, the hour of active duty, rest days, vacation periods and other involvement of his or her employment shall be such as may be determined by the Common Council from time to time.

(b) **General Duties.** The Chief of Police shall:

- (1) Have command of the Police Department of the City under direction of the City Administrator and Mayor;
- (2) Have general administration and control of the Department;
- (3) Be responsible for the Department's government, efficiency and general good conduct;
- (4) Perform all duties prescribed to him/her by laws of the State and ordinances of the City.
- (5) Develop Department policies and procedures in consultation with the City Administrator with the recommendation of the Safety and Welfare Committee with final approval of the City Council;
- (6) Maintain Department ethics and discipline;
- (7) Delegate special assignments or duties to police officers, and monitor to see that responsibilities are carried out;
- (8) Perform all the duties of a police officer during a portion of every regular shift;
- (9) Identify and evaluate ideas to achieve more efficient and effective operation;
- (10) Prepare Department budget requests and maintains expenditures within approved budgetary levels under the direction of the City Administrator;
- (11) Authorize overtime work for police officers, with supporting justification provided to the City Administrator and the Mayor. All overtime must be documented and supplied to the Administrator in the week that it occurs;
- (12) Participate in the recruitment, testing and selection of new personnel, in consultation with the City Administrator and City Council;
- (13) Supervise and participate in the advanced and continuing training of police officers and non-sworn Department employees;
- (14) Cooperate with county, state and federal officials, and other municipal law enforcement agencies;
- (15) Make special reports to the Common Council or City Administrator on request; and advise and cooperate with other City departments in matters of public safety;
- (16) Submit monthly and annual reports to the Mayor and City Administrator;
- (17) Perform other miscellaneous duties as assigned.

*State Law Reference:* Sec. 62.09(13) and 62.13, Wis. Stats.

## **Section 2.3.10 Fire Chief.**

- (a) **Appointment.** The Fire Chief shall be appointed pursuant to the bylaws of the Hillsboro Area Fire Association.
- (b) **Duties and Powers.** As determined by the Hillsboro Area Fire Association.
- (c) **Reports of Chief.** The Fire Chief shall report to the Common Council from time to time at his/her discretion or upon the request of said Common Council on matters concerning departmental matters and shall perform such other duties in conformance with his/her office as may from time to time be required of him/her by the Common Council

*State Law Reference:* Sec. 62.13, Wis. Stats.

## **Section 2.3.11 Assessor.**

- (a) **Appointment.**
  - (1) The City of Hillsboro hereby elects not to be governed by those portions of Sec. 62.09(3)(b), Wis. Stats., relating to the method of selection of the City Assessor which are in conflict with this Section.
  - (2) The City Assessor, or assessing firm, shall be appointed by the Common Council for a term of office as determined by contract.
  - (3) A corporation or an independent contractor may be appointed as Assessor. The corporation or independent contractor so appointed shall designate the person responsible for the assessment. The designee shall file the official oath under Sec. 19.01, Wis. Stats., and sign the affidavit of the Assessor attached to the assessment roll under Sec. 70.49, Wis. Stats.
  - (4) No Assessor shall be appointed unless said Assessor is certified by the Wisconsin Department of Revenue as qualified to perform the functions of the office of Assessor.
- (b) **Duties.** The Assessor shall perform all duties required of such office as provided by law and such other duties as are requested to be executed by such person by the Common Council from time to time.
- (c) **Definition.** For purposes of this Section, "independent contractor" means a person who either is under contract to furnish appraisal and assessment services or is customarily engaged in an independently established trade, business or profession in which the services are offered to the general public.

*State Law Reference:* Public Officials' oaths and bonds, Sec.19.01, Wis.Stats., corporation as assessor, Sec. 62.09(1)(c), Wis. Stats., affidavit of assessor, Sec. 70.49, Wis. Stats.; assessor certification, Sec. 73.02, Wis. Stats.; assessors in cities, Sec. 70.05, Wis. Stats.

## **Section 2.3.12 Building Inspector.**

(a) **Qualifications.**

- (1) There is created the position of Building Inspector. Such services may be contracted for on an as-needed basis as determined by the Common Council and City Administrator.
- (2) The Building Inspector shall:
  - a. Possess such executive ability as is requisite for the performance of his/her duties and shall have a thorough knowledge of the standard materials and methods used in the installation of equipment in his/her area of responsibility;
  - b. Be well versed in approved methods of construction for safety to persons and property, the Statutes of the State of Wisconsin relating to work in his/her area of responsibility, and any orders, rules and regulations issued by authority thereof;
  - c. Have sufficient experience in the installation of equipment to enable him/her to understand and apply the appropriate codes adopted by the City of Hillsboro.

(b) **Appointment and General Powers.**

- (1) The Building Inspector shall be appointed by the Mayor, subject to Council confirmation, for an indefinite term of office.
- (2) Any person feeling himself aggrieved by any order or ruling of the Building Inspector may, within twenty (20) days thereafter, appeal from such order or ruling to the Board of Appeals, as established in the Zoning Code, such an appeal to be in writing.

(c) **Authority to Enter Premises.**

- (1) In the discharge of his/her duties, the Building Inspector under this Section or his/her authorized agent may enter any building, upon presentation of the proper credentials, during reasonable hours for the purpose of inspection any may require the production of any permit or license required hereunder. No person shall interfere with the Inspector or his/her authorized agent while in the performance of his/her duties; and any person so interfering shall be in violation of this Section and subject to a penalty as provided by Section 1.1.7.
- (2) If consent to entry to personal or real properties which are not public buildings or to portions of public buildings which are not open to the public for inspection purposes has been denied, the Inspector shall obtain a special inspection warrant under Section 66.0119, Wis. Stats.

(d) **Duties and Authority.** The Building Inspector shall have such duties as are prescribed in this Section and Title 15, Chapter 1, of this Code of Ordinances.

(e) **Records.** The Building Inspector shall keep a record of all applications for permits and regularly number each permit in the order of issuance. The Building Inspector shall keep



a record of all inspections made and a record of all fees collected by them showing the date of his/her receipt and transfer to the City Treasurer.

- (f) **Stop Work Orders and Revocations.** The Building Inspector may order construction, installation, alteration or repair work stopped when such work is being done in violation of this Code of Ordinances. Work so stopped shall not be resumed, except with written permission of the Inspector, provided if the stop work order is an oral one it shall be followed by a written order within a reasonable period of time.

### **Section 2.3.13 Health Officer.**

- (a) **Selection.** A Health Officer may be appointed by the Mayor, subject to Council confirmation. Such Health Officer shall be a physician, or in lieu thereof, a person with training and experience in public health administration which shall meet training and experience requirements established by the State Department of Health and Social Services. If the Health Officer is not a physician, the Common Council shall arrange for and provide in addition such services of a physician as may be necessary on either a part-time or fulltime basis and provide reasonable compensation therefor.
- (b) **Vacancy.** If a vacancy in the position of Health Officer occurs, the Mayor shall immediately fill the position.
- (c) **Responsibilities.**
- (1) The Health Officer shall provide such additional rules and regulations as are necessary for the preservation of health, to prevent the spread of communicable diseases, and to cause the removal of all objects detrimental to health and to enforce the health laws. All proposed rules and regulations shall be reported to the Common Council by the Health Officer, and if the Council approves the same by a vote of a majority of its members, they shall have the force and effect of ordinances, including penalty for violation.
  - (2) The Health Officer shall from time to time recommend to the Common Council such sanitary measures, to be executed by the City as seem necessary, and shall discharge such other duties as may be imposed upon the Council by ordinance or resolution.

*State Law Reference:* 62.09(1)(a) and 250.01(5), Wis. Stats.; HFS 139.05, Wis. Adm. Code.

### **Section 2.3.14 Weed Commissioner.**

The Weed Commissioner shall be appointed by the Mayor, subject to Council confirmation. The term of office of the Weed Commissioner shall commence on the first day of May following his/her appointment. The Weed Commissioner shall take the official oath, which

oath shall be filed in the Office of the City Clerk, and shall hold office for one (1) year. The Weed Commissioner shall hold office pursuant to and fulfill the duties set out in state law.

*State Law Reference:* Sec. 66.0517(2)(a), Wis. Stats.

### **Section 2.3.15 Eligibility for Office.**

- (a) No person shall be elected by the people to a City office who is not, at the time of his/her election, a citizen of the United States and of this State, and an elector of the City, and in case of a ward office, of the ward, and actually residing therein.
- (b) An appointee by the Mayor, requiring to be confirmed by the Council, who shall be rejected by the Council, shall be ineligible for appointment to the same office for one (1) year thereafter.
- (c) No member of the Common Council shall, during the term for which he/she is elected, be eligible for an office or position which, during such term, has been created by, or the selection to which is vested in, the Council, provided that the Council may be represented on City boards or commissions where no additional remuneration is paid such representative except as otherwise provided by the laws of the State of Wisconsin.

*State Law Reference:* Sec. 62.09(2), Wis. Stats.

### **Section 2.3.16 Removal from Office.**

- (a) **Elected Officials.** Elected officials may be removed by the Common Council as provided in Sections 17.12(1)(a) and 17.16, Wis. Stats.
- (b) **Appointed Officials.** Appointed officials may be removed as provided in Section 17.12(1)(c) and 17.16, Wis. Stats.

**Annotation:** 62 Atty. Gen. Op. 97.

### **Section 2.3.17 Custody of Official Property.**

City officers must observe the standards of care imposed by Sec. 19.21, Wis. Stats., with respect to the care and custody of official property.

*State Law Reference:* Sec. 19.21, Wis. Stats.

## Section 2.3.18 Oath of Office; Bonds of Officers.

- (a) **Oath.** Every person elected or appointed to any statutory office shall take and file his/her official oath within ten (10) days after the notice of his/her election or appointment.
- (b) **Bonds.** The City Treasurer, and such other statutory officers as the laws of Wisconsin or the Common Council may direct, shall execute and file an official bond in such form as the Council may determine. The Council may at any time require new or additional bonds of any officer. All official bonds must be approved by the Mayor and, when so approved, then be filed within ten (10) days after the officer executing the same shall have been notified of this election or appointment. Official bonds shall be filed with the City Treasurer and shall be recorded by him/her in a book kept by him/her for that purpose.

## Section 2.3.19 Residency Requirement of Certain Officials and Employees

- (a) **Purpose and Mandate.** The Mayor and Common Council find and the City of Hillsboro requires that it is necessary, convenient and proper, in order to provide for the health, safety, general welfare, administrative and emergency needs of the citizens, that certain essential City officials, after the effective date of this Ordinance, reside within the corporate limits of the City; and, that certain City employees reside within the corporate limits of the City.
- (b) **Scope and Application.** The residency portion of this section applies to the City Administrator, the Chief of Police, and all full-time Police Department Employees.
  - (1) This section shall not apply to an essential City official or other City official whose employment with the City on the effective date of this section arises out of a personal contract with the City for the provision of personal or professional services; whose employment with the City arises out of a joint or cooperative contract with another municipality; or whose employment with the City arises out of a personal contract for the provision of personal or professional services on a temporary basis for a term of one (1) year or less, or for the purpose of a single or nonrecurring special project, study or service.
- (c) **Residency Transition.** A listed essential official or employee who resides outside the corporate limits of the City on the effective date of this section shall establish residency inside the corporate limits of the City immediately upon the change, sale, transfer or Employees conveyance of the person's residence, or the person's office, position or employment with the City shall be forthwith automatically vacated.
  - (1) Any listed essential official or employee who resides inside the corporate limits of the City on the effective date of this section shall not reside outside the corporate limits of the City unless the person's office, position or employment with the City shall be forthwith automatically vacated.

- (2) A vacancy occurring under this section shall be filled as provided in the Code of Ordinances for the original appointment of an essential City official; or, as to all employees, according to existing City employment policy and practice.
- (3) Personnel to whom this Ordinance applies who reside outside the reporting time requirement on the effective date of this section shall establish residency within such requirement upon the change, sale, transfer or conveyance of the person's residence, or the person's employment with the City shall be forthwith automatically vacated.
- (d) **Waiver.** The Common Council may, upon a showing of necessity and a vote of a majority of all its members, waive the requirements of this section.

## Title 2 - Chapter 4

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### Boards, Commissions and Committees

#### Section 2.4.1 Board of Review.

- (a) **Composition.** The Board of Review shall consist of four (4) Alderpersons annually appointed by the Mayor, subject to confirmation by the Common Council. They shall receive such compensation as shall be determined by the Council from time to time.
- (b) **Compensation.** The members of the Board of Review shall receive a salary as determined by the Common Council for each day or fraction thereof, that the Board is in session for the purpose of hearing and considering testimony or in meeting their report and determination.
- (c) **Objections to Valuations to Be Written.** No person shall be permitted to appear and make objection before the Board to the amount of valuation of any property unless objection thereto shall first have been made in writing and filed with the Clerk of the Board prior to the adjournment of public hearing by the Board.
- (d) **Duties.** The duties and functions of the Board of Review shall be as prescribed in Secs. 70.46, 70.47 and 70.48, Wis. Stats.
- (e) **Board's Duty.** The Board shall carefully examine the assessment roll and correct all apparent errors in description or computation. It shall add all omitted property but shall not raise or lower the assessment of any property except after hearing, as provided by the Statutes.

*State Law Reference:* Secs. 70.46, 70.47, and 70.48, Wis. Stats.

#### Section 2.4.2 Library Board.

- (a) **Membership and Terms.** Pursuant to Sec. 43.54, Wis. Stats., the Library Board shall consist of seven (7) members plus the county representative(s), appointed by the Mayor, subject to confirmation by the Council, to serve three (3) year terms. One (1) member shall be a school district administrator or his/her representative. Not more than one (1) member of the Council shall serve on the Library Board at any one (1) time. Up to two (2) members of the total body may be residents of towns adjacent to the City.

(b) **Duties and Powers.**

(1) The Library Board shall have the duties and powers as prescribed by Chapter 43, and more particularly set forth in Sec. 43.58, Wis. Stats. The Library Board shall appoint the Librarian and other library employees.

(2) The Library Board shall submit annually to the Council an itemized budget of the estimated expenses of the library for the following year.

(c) **County Appointments to Library Board.** Pursuant to Sec 43.60(3), Wis. Stat., ) a county chairperson, with the approval of the county board, may appoint from among the residents of the county additional members to the library board of a public library of a municipality located in whole or in part in the county, for a term of 3 years from the May 1 following the appointment, and thereafter for a term of 3 years. Whenever the annual sum appropriated by the county under Sec. 43.60(3)(a)1, Wis. Stats., is equal to at least one-sixth, but less than one-third, of the annual sum appropriated to the public library by the city, the county chairperson, with the approval of the county board, may appoint from among the residents of the city or county an additional member of the library board. The term is for three (3) years from the May 1 following the appointment. Whenever the annual sum appropriated by the county under Sec. 43.60(3)(a)2, is equal to at least one-third, but less than one-half, of the annual sum appropriated to the public library by the city, the county chairperson, with the approval of the county board, may appoint two additional members to the library board. Whenever the annual sum appropriated by the county under Sec. 43.60(3)(a)3, is equal to at least one-half, but less than two-thirds, of the annual sum appropriated to the public library by the city, the county chairperson, with the approval of the county board, may appoint three additional members to the library board. Whenever the annual sum appropriated by the county under Sec. 43.60(3)(a)4, is equal to at least two-thirds, but less than the annual sum appropriated to the public library by the city, the county chairperson, with the approval of the county board, may appoint four additional members to the library board. If the annual sum appropriated by the county under Sec. 43.60(3)(a)5, is equal to at least the annual sum appropriated to the public library by the city, the county chairperson, with the approval of the county board, may appoint five additional members to the library board. A county chairperson may appoint a county supervisor to serve as a member of a library board of a public library of a municipality, but no more than one county supervisor so appointed may serve on the library board at the same time.

*State Law Reference:* Secs. 43.54, 43.58, and 43.60, Wis. Stats.

### **Section 2.4.3 Board of Health.**

(a) **Composition.** The Common Council shall serve as the City of Hillsboro Board of Health. The Council shall make a recommendation to the Mayor on appointing a competent and proper person who shall be, whenever the same is applicable, a reputable physician, who shall be the Health Officer of the City and who shall, during his term of office, be an ex officio officer of the Board.

(b) **Responsibilities.**

- (1) The Board of Health shall take such measures as shall be most effectual for the preservation of the public health. It shall be the duty of the Board of Health of the City of Hillsboro to assume the general administration of health and sanitation laws and regulations in the City and to attend to the administration and enforcement of the health laws of the State and the rules and regulations prescribed by the State Board of Health and the ordinances of the City.
- (2) The Board shall take such measures and make such rules and regulations as shall be necessary and effectual for the preservation and promotion of the public health in the City of Hillsboro. All orders and regulations of the Board shall be published in the official newspaper and, after publication, shall have the force and effect of ordinances, including penalty for violation.

*State Law Reference:* Sec. 62.09(1)(a) and 250.01(3), Wis. Stats.

## **Section 2.4.4 Board of Appeals.**

- (a) **Establishment.** A Zoning Board of Appeals shall be appointed as specified in Sec. 62.23(7)(e), Wis. Stats. The Zoning Board of Appeals shall consist of five (5) members, and two (2) alternate members, appointed by the Mayor, subject to confirmation by the Common Council for a term of three (3) years. The members shall be compensated as determined by the Council and shall be removable by the Common Council for cause upon written charges and upon public hearing. The Mayor shall designate one of the members chairman.
- (b) **Powers.** The Zoning Board of Appeals shall have the following powers:
  - (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the City's zoning or building code ordinances.
  - (2) To hear and decide special exceptions to the terms of City zoning and floodplain zoning or building code regulations upon which the Board of Appeals is required to pass.
  - (3) To authorize, upon appeal in specific cases, such variance from the terms of the City's zoning or building code regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the zoning code shall be observed, public safety and welfare secured and substantial justice done; provided, however, that no such action shall have the effect of establishing in any district a use or uses not permitted in such district.
  - (4) To permit the erection and use of a building or premises in any location subject to appropriate conditions and safeguards in harmony with the general purposes of the

zoning code, for such purposes which are reasonably necessary for public convenience and welfare.

- (5) The Zoning Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination as in its opinion ought to be made regarding the premises. The concurring vote of a majority of members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass, or to effect any variation in the requirements of the City's zoning ordinances. The grounds of every such determination shall be stated and recorded. No order of the Zoning Board of Appeals granting a variance shall be valid for a period longer than six (6) months from the date of such order unless a zoning permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.
- (c) **Meetings and Rules.** All meetings of the Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the Board may determine. All hearings conducted by the said Board shall be open to the public. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be a public record. The Board shall adopt its own rules of procedure not in conflict with this Section or with applicable Wisconsin Statutes.
- (d) **Offices.** The Common Council shall provide suitable meeting space for holding the Zoning Board of Appeals' hearings.
- (e) **Appropriations.** The Common Council shall appropriate funds to carry out the duties of the Zoning Board of Appeals and the Board shall have the authority to expend, under regular procedures, all sums appropriated to it for the purpose and activities authorized herein.

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

## **Section 2.4.5 City Plan Commission.**

- (a) **Composition.** The Plan Commission shall consist of the Mayor, who shall be the presiding officer, three (3) Alderpersons and three (3) citizens.
- (b) **Appointment.**
  - (1) ***Election/Appointment of Alderperson Members.*** At its annual meeting in April of each year the Common Council shall, by a two-thirds (2/3) majority vote of its members, elect three (3) of its numbers as members of the City Plan Commission for a period of one (1) year from and after the first day of May next ensuing.
  - (2) ***Appointment and Terms of Citizen Members.*** The three (3) citizen members shall be appointed by the Mayor, subject to Council confirmation, on the third Tuesday



of April in each year to hold office for a staggered term of three (3) years commencing with the third Tuesday of April.

- (c) **Organization of Commission.** The Mayor shall serve as presiding officer. The Plan Commission shall organize by the election of a vice-chairman, secretary and such other officers as may in their judgment be necessary.
- (d) **Record.** The Plan Commission shall keep a written record of its proceedings to include all actions taken, a copy of which shall be filed with the City Clerk. Four (4) members shall constitute a quorum but all actions shall require the affirmative approval of a majority of all of the members of the Commission.
- (e) **Duties.**
  - (1) ***The Master Plan.***
    - a. The Plan Commission may make, adopt and, as necessary, amend, extend or add to the master plan, subject to Common Council confirmation, for the physical development of the City including areas outside of its boundaries which, in the Plan Commission's judgment, bear relation to the development of the City. The master plan, with the accompanying maps, plats and descriptive and explanatory matter, shall show the Commission's recommendations for such physical development, and may include, among other things without limitation because of enumeration, the general location, character and extent of streets, highways, freeways, street grades, roadways, walks, parking areas, public places and areas, parks, parkways, playgrounds, sites for public buildings and structures, and the general location and extent of sewers, water conduits and other public utilities whether privately or publicly owned, the acceptance, widening, narrowing, extension, relocation, removal, vacation, abandonment or change of use of any of the foregoing public ways, grounds, places, spaces, buildings, properties, utilities, routes or terminals, the general location, character and extent of community centers and neighborhood units, and a comprehensive zoning plan.
    - b. The Commission may adopt the master plan as a whole by a single resolution, or, as the work of making the whole master plan progresses, may from time to time by resolution adopt a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan. The adoption of the plan or any part, amendment or addition, shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the Plan Commission, subject to confirmation by the Common Council. The resolution shall refer expressly to the maps, descriptive matter, and other matters intended by the Commission to form the whole or any part of the plan, and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the secretary of the Commission, and a copy of the plan or part thereof shall be certified to the Common Council. The purpose and effect of the adoption and certifying of the master plan or part thereof shall be solely to aid the Plan Commission and the Common Council in the performance of their duties.

- (2) ***Mandatory Referrals to Commission.*** The Common Council or officer of the City having final authority thereon shall refer to the Plan Commission, for its consideration and report before final action is taken by the Council, public body or officer, the following matters: the location of any statue or other memorial; 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 ways, park, playground, airport, area for parking vehicles, or other memorial or public grounds; the location, extension, abandonment or authorization for any public utility whether publicly or privately owned; all plats of lands in the City or within the territory over which the City is given platting jurisdiction by Chapter 236, Wis. Stats.; the location, character and extent or acquisition, leasing or sale of lands for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children; and the amendment or repeal of any land use ordinance. Unless such report from the Commission is made within thirty (30) days, or such longer period as may be stipulated by the Common Council, the Council or other public body or officer may take final action without it.
- (3) ***Miscellaneous Powers.*** The Commission may make reports and recommendations relating to the plan and development of the City to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens. It may recommend to the Common Council programs for public improvements. All public officials shall, upon request, furnish to the Commission, within a reasonable time, such available information as it may require for its work. The Commission, its members and employees, in the performance of its functions, may enter upon any land, make examinations and surveys, and place and maintain necessary monuments and markers thereon. In general, the Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning in cooperation with the Common Council.
- (f) ***Vacancies.*** Vacancies shall be filled by appointment for the remainder of the unexpired term in the same manner as appointment for the full term.
- (g) ***Compensation.*** Compensation shall be as established by the Common Council. Citizen members shall take the official oath as required by Sec. 19.01, Wis. Stats., said oath to be filed with the City Clerk.
- State Law Reference:* Sec. 62.23, Wis. Stats.

## **Section 2.4.6 Room Tax Commission.**

- (a) ***Room Tax Commission.*** Pursuant to Sec. 66.0615(1m)(b)1, Wis. Stats., a room tax commission is hereby created. The Commission shall consist of five (5) members. One (1) of the Commission members shall represent the Wisconsin hotel and motel industry.
- (b) ***Appointment and Confirmation.*** All members of the commission shall be appointed by the Mayor of Hillsboro and shall be confirmed by a majority of the members of the Hillsboro City Council who are present when the vote is taken. Commissioners shall

serve for a one-year (1) term, at the pleasure of the appointing official, and may be reappointed.

- (c) **Duties and Purpose.** The Commission responsibilities shall include management of room tax revenue. The dispersion of said revenues shall be for the promotion of the City of Hillsboro and done so in a manner that attracts tourists and visitors. The Room Tax Commission is also responsible for the formation, organization, and provision of a “tourist center” that shall be established and supported through the use of room tax funds. Members shall take a progressive and proactive approach toward developing the City of Hillsboro as a tourist destination.

### **Section 2.4.7 Community Development Block Grant (CDBG) Committee.**

The CDBG Committee is a three (3) member committee appointed by the Mayor, subject to Council confirmation. The Committee shall be composed of two (2) Alderpersons and one (1) citizen member. All members shall be residents of the City. Appointments shall be made annually. The Committee shall assist in program planning, implementation and assessment of the community development block grant program.

### **Section 2.4.8 Hillsboro Community Development Authority.**

- (a) **Composition.** The Community Development Authority shall consist of seven (7) commissioners appointed by the Mayor with the confirmation of the Council, who have sufficient ability and experience in the fields of urban renewal, community development and housing. Two (2) commissioners shall be members of the council and shall serve during their terms in office. The remaining five (5) members shall be citizen commissioners that serve four (4) year terms with at least one (1) term beginning and ending every 3<sup>rd</sup> Tuesday in April.
- (b) **Quorum.** Four (4) commissioners shall constitute a quorum.
- (c) **Duties and Powers.** The Community Development Authority has all powers, duties and functions set out in Wis. Stats. 66.1201, 66.1333, and 66.1335 for housing and redevelopment authorities.
- (d) **Minutes to be Kept.** For every Community Development Authority meeting, the Secretary is to keep minutes and provide a copy of those minutes to the City Clerk. Every sub-board, sub-commission, or sub-committee formed by the Community Development Authority is also required to submit minutes of their meetings to the City Clerk.

- (e) **Termination.** The City Council maintains the right to terminate the Community Development Authority at any time by a three-fourths (3/4) vote of the City Council. The City Council will then be responsible for management of all debts and assets of the Community Development Authority.

## Section 2.4.9 Police Committee

- (a) **Creation.** There is created and established a police committee in accordance with the provisions of Wis. Stats. 62.13(6m)(a).
- (b) **Personnel Selection.** The City Mayor, with concurrence of the City Council pursuant to Wis. Stats. 62.13(6m)(a) shall appoint three (3) citizens of the City, annually to the police committee, such appointments to be made in the month of April to be effective in the month of May in each year. Each person to serve for a term of one (1) year. None of the committee members may be an elected or appointed official of the City or be employed by the City.
- (c) **Duties.** The committee shall only possess the powers and perform those duties assigned to such committees under Wis. Stat. 62.13(6m)(a), said powers and duties being specifically those described in Wis. Stat. 62.13 as modified or amended from time to time.
- (d) **Compensation.** Members of the committee shall serve with a salary in an amount to be determined from time to time by the Personnel and Finance Committee, subject to approval of the City Council.
- (e) **Individual Member Appointment.** When deemed necessary by the City Council and the City Mayor, the City Mayor, with concurrence of the City Council and approval of the Police Committee which may then be in existence, pursuant to Wis. Stat. 62.13(6m)(b) may appoint an individual who is not an elected or appointed official of the City and who is not employed by the City to serve in lieu of the Police Committee with regard to a particular disciplinary action. Said individual shall only possess the powers and perform those duties assigned to such an individual under Wis. Stat. 62.13(6m)(b), said powers and duties being specifically those described in Wis. Stat. 62.13 as modified or amended from time to time. Said individual is eligible for compensation as referenced above.

## Section 2.4.10 General Provisions Regarding Meetings and Public Notice

- (a) **Regular Meetings; Public Notice.** Every Board, Committee and Commission created by or existing under the ordinances of the City shall:
  - (1) Fix a regular date, time and place for its meeting:

- (2) All meeting notices shall be filed with the City Administrator who shall cause the notice to be published and posted in full compliance with the Open Meetings Law Requirements.
- (3) Post on the bulletin board at City Hall, at the Post Office, and at the Official Bank; or publish an agenda of the matters to be taken up at such meeting.
- (b) **Special Meetings.** Nothing in Subsection (a) shall preclude the calling of a special meeting or with dispensing with the publication of notice or such posting of the agenda, for good cause, but such special meetings shall nonetheless comply in all respects with the provisions of Secs. 19.81 to 19.89, Wis. Stats.

### **Section 2.4.11      Residency Required for Service on Boards or Commissions; Attendance Standards.**

- (a) **Residency.** Except for the Library Board, or as provided by enabling ordinance, no person not a resident of the City of Hillsboro shall be appointed in a voting capacity to any City board, committee or commission. Any such member who moves from the City shall be removed from such board, commission or committee, but may be appointed to serve in an ex officio capacity.
- (b) **Attendance Standard.** Members of boards, committees and commissions are required to attend a minimum of two-thirds (2/3) of the meetings in each six (6) month period of their respective bodies, unless excused by the membership of their body. Failure to comply with this Subsection may result in the removal and replacement of the official found to be in noncompliance.
- (c) **Member Subject to Removal.** Any member of any board or commission who violates any provision of this Section or who knowingly attends a meeting held in violation hereof may be removed as a member of such board or commission after being granted a public hearing, by the appointing authority and upon concurrence of the Common Council.

### **Section 2.4.12      Committee and Commission Rules.**

- (a) Except as provided herein, the provisions of Section 2.2.18 of this Code of Ordinances relating to rules of procedure for the Common Council, together with *Robert's Rules of Order*, shall as far as applicable, also apply to committee, board and commission meetings.
- (b) A simple majority of the members of a board, committee or commission shall constitute a quorum.

## **Section 2.4.13 Airport Advisory Committee**

- (a) The Airport Advisory Committee is established and shall consist of six (6) members to be appointed by the Mayor, subject to Council confirmation. At least three (3) members shall be residents of the City of Hillsboro, with one being a member of the Common Council, and three members may be non-residents of the City.
- (b) Members shall be appointed annually and may be re-appointed to serve consecutive terms. Members should have knowledge of airport operations or be frequent users of the airport. The Committee shall carry out any duties as required by the Airport Layout Plan and Airport Master Plan of the City.
- (c) The Airport Advisory Committee will have no authority to appropriate or expend funds, nor have policy making authority. The Airport Advisory Committee will report its findings and recommendations either directly to the Improvement and Services Committee directly, or to the Improvement and Services Committee through the City Administrator. No action will be taken by the Airport Advisory Committee without approval from the Improvement and Services Committee, with the exception of providing applicable engineers with concrete data and informed, personal opinions as requested by said engineers.

# Title 2 - Chapter 5

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## Ethics Code

### Section 2.5.1 Statement of Purpose.

- (a) The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established in this Chapter a Code of Ethics for all City of Hillsboro officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the City, as well as any individuals who are candidates for elective office as soon as such individuals file nomination papers with the City.
- (b) The purpose of this Ethics Code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the City of Hillsboro and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the City. The Common Council believes that a Code of Ethics for the guidance of elected and appointed officials and employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the citizens of this City in their elected and appointed officials and employees.
- (c) The Common Council hereby reaffirms that each elected and appointed City official and employee holds his or her position as a public trust, and any intentional effort to realize substantial personal gain through official conduct is a violation of that trust. The provisions and purpose of this Ethics Code and such rules and regulations as may be established are hereby declared to be in the best interests of the City of Hillsboro.

### Section 2.5.2 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Public Official.** Those persons serving in statutory elected or appointed offices provided for in Chapter 62, Wis. Stats., and all members appointed to boards, committees and commissions established or appointed by the Mayor and/or Common Council pursuant to this Code of Ordinances, whether paid or unpaid.

- (b) **Public Employee.** Any person excluded from the definition of a public official who is employed by the City.
- (c) **Anything of Value.** Any gift, favor, loan, service or promise of future employment, but does not include reasonable fees and honorariums, or the exchange of seasonal, anniversary or customary gifts among relatives and friends.
- (d) **Business.** Means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages in profit-making activities.
- (e) **Personal Interest.** The following specific blood or marriage relationships:
  - (1) A person's spouse, mother, father, child, brother, sister or first cousin (natural or step); or
  - (2) A person's relative by blood or marriage who receives, directly or indirectly, more than one-half (1/2) support from such person or from whom such person receives, directly or indirectly, more than one-half (1/2) of his/her support.
- (f) **Significant Interest.** Owning or controlling, directly or indirectly, at least ten percent (10%) or Five Thousand Dollars (\$5,000.00) of the outstanding stock of at least ten percent (10%) or Five Thousand Dollars (\$5,000.00) of any business.
- (g) **Financial Interest.** Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.
- (h) **Staff.** Any full-time or part-time employee of the City.

### **Section 2.5.3 Statutory Standards of Conduct.**

There are certain provisions of the Wisconsin Statutes which should, while not set forth herein, be considered an integral part of any Code of Ethics. Accordingly, the provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are made a part of this Code of Ethics and shall apply to public officials and employees whenever applicable, to wit:

- (a) Sec. 19.59. State Ethics Law.
- (b) Sec. 946.10. Bribery of Public Officers and Employees.
- (c) Sec. 946:11. Special Privileges from Public Utilities.
- (d) Sec. 946.12. Misconduct in Public Office.
- (e) Sec: 946:13. Private Interest in Public Contract Prohibited.

### **Section 2.5.4 Responsibility of Public Office.**

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and carry out impartially the laws of the nation, state and municipality, to observe



in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern. Their conduct in both their official and private affairs should be above reproach so as to foster respect for government.

### **Section 2.5.5 Dedicated Service.**

- (a) Officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.
- (b) Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.
- (c) Members of the City staff are expected to follow their appropriate professional code of ethics. Staff members shall file a copy of such professional ethics codes with the City Administrator. The City Administrator may notify the appropriate professional ethics board of any ethics violations involving City employees covered by such professional standards.

### **Section 2.5.6 Fair and Equal Treatment.**

- (a) **Use of Public Property.** No official or employee shall use or permit the unauthorized use of City-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as City policy for the use of such official or employee in the conduct of official business, as authorized by the Common Council or authorized board, commission or committee.
- (b) **Use of City Stationery.** No official or employee shall use, or permit the unauthorized use of, City stationery for personal use.
- (c) **Obligations to Citizens.** No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen. No official or employee shall use or attempt to use his or her position with the City to secure any advantage, preference or gain, over and above his/her rightful remuneration and benefits, for himself/herself or for a member of his/her immediate family.
- (d) **Political Contributions.** No official shall personally solicit from any City employee, other than an elected official, a contribution to a political campaign committee for which the person subject to this Chapter is a candidate or treasurer.

## Section 2.5.7 Conflict of Interest.

(a) **Financial and Personal Interest Prohibited.**

- (1) No official or employee of the City, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest contrary to the provisions of this Chapter or which would tend to impair independence of judgment or action in the performance of official duties.
- (2) Any member of the Common Council who has a financial interest or personal interest in any proposed legislation before the Common Council shall disclose on the records of the Common Council the nature and extent of such interest; such official shall not participate in debate or vote for adoption or defeat of such legislation. If the matter before the Council involves a member's personal interest with persons involved, the member may participate in debate or discussion and vote on the matter following disclosure, unless an ordinance or contract is involved; if an ordinance or contract is involved, such official shall not participate in debate or discussion and vote on the matter.
- (3) Any non-elected official who has a financial interest or personal interest in any proposed legislative action of the Common Council or any board, commission or committee upon which the official has any influence or input or of which the official is a member that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Common Council or the appropriate board, commission or committee the nature and extent of such interest. Such official shall not participate in debate or discussion or vote for adoption or defeat of such legislation.
- (4) Any City employee who has a financial interest or personal interest in any proposed legislative action of the Common Council or any board, commission or committee upon which the employee has any influence of input, or of which the employee is a member, that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Common Council or the appropriate board, commission or committee the nature and extent of such interest.

(b) **Disclosure of Confidential Information.** No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City, nor shall such information be used to advance the financial or other private interests of the official or employee or others.

(c) **Gifts and Favors.**

- (1) No official or employee, personally or through a member of his/her immediate family, may solicit or accept, either directly or indirectly, from any person or organization, money or anything of value if it could be expected to influence the employee's official actions or judgments or be considered a reward for any action or inaction on the part of the official or employee.

- (2) No official or employee personally, or through a member of his immediate family, shall accept any gift, whether in the form of money, service, loan, thing or promise from any person which could reasonably be expected to impair his/her independence of judgment or action in the performance of his duties or grant in the discharge of his/her duties any improper favor, service or thing of value. However, it is not a conflict of interest for any public official or employee to receive hospitality that is unsolicited and unrelated to government business, such as a meal, and that is not intended to influence the official.
  - (3) An official or employee is not to accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest, or a member of the guest's immediate family, was a City official or employee. Participation in celebrations, grand openings, open houses, informational meetings and similar events are excluded from this prohibition. This paragraph further shall not be construed to prevent candidates for elective office from accepting hospitality, as a properly reported political contribution, from citizens for the purpose of supporting the candidate's campaign. (The State Ethics Board has interpreted "hospitality" as it applies to state officials as including meals, beverages and lodging which a person offers at his/her residence and would have been offered if the recipient was not an official).
  - (4) Gifts received by an official or employee or his/her immediate family under unusual circumstances shall be referred to the Common Council within ten (10) days of receipt for recommended disposition. Any person subject to this Chapter who becomes aware that he/she is or has been offered any gift, the acceptance of which would constitute a violation of this Subsection, shall, within ten (10) days, disclose the details surrounding said offer to the Common Council. Failure to comply with this reporting requirement shall constitute an offense under this Chapter.
- (d) **Representing Private Interests Before City Agencies or Courts.**
- (1) Non-elected City officials and employees shall not appear on behalf of any private person (other than him or herself, his or her spouse or minor children) before any City agency, board, commission or the Common Council if the official or employee or any board, commission or committee of which the official or employee is a member has any jurisdiction, discretion or control over the matter which is the subject of such representation.
  - (2) Elected City officials may appear before City agencies on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations. However, the disclosure requirements of Subsection (a) above shall be applicable to such appearances.
- (e) **Ad Hoc Committee Exceptions.** No violation of the conflict of interest restrictions of this Section shall exist, however, where an individual serves on a special ad hoc committee charged with the narrow responsibility of addressing a specific issue or topic

in which that individual, or the employer or a client of that individual, has an interest so long as the individual discloses to the Common Council that such interest exists.

- (f) **Contracts with the City.** No City official or employee who, in his/her capacity as such officer or employee, participates in the making of a contract in which he has a private pecuniary interest, direct or indirect, or performs in regard to that contract with some function requiring the exercise of discretion on his/her part shall enter into any contract with the City unless, within the confines of Sec. 946.13, Wis. Stats.:
  - (1) The contract is awarded through a process of public notice and competitive bidding or the Common Council waives the requirement of this Section after determining that it is in the best interest of the City to do so.
  - (2) The provisions of this Subsection shall not apply to the designation of a public depository of public funds.
- (g) **Campaign Contributions.** Campaign contributions shall be reported by all candidates for City office in strict conformity with the provisions of the Wisconsin Statutes. Any campaign contribution tendered to or accepted by a candidate subsequent to the final statutory report shall be reported to the Common Council.

## **Section 2.5.8 Advisory Opinions.**

When an official or employee has doubt as to the applicability of a provision of this Ethics Code to a particular situation or definition of terms used in this Chapter, he/she should apply to the Finance and Personnel Committee, which may ask the City Attorney for an advisory opinion and will be guided by that opinion when given. The official or employee shall have the opportunity to present his/her interpretation of the facts at issue and of the applicability provisions of this Chapter before such advisory decision is made. This Chapter shall be operative in all instances covered by its provisions except when superseded by an applicable statutory provision and statutory action is mandatory, or when the application of a statutory provision is discretionary, but determined by the City Attorney to be more appropriate or desirable. Advisory requests and opinions shall be kept confidential, except when disclosure is authorized by the requestor, in which case the request and opinion may be made public.

## **Section 2.5.9 Hiring Relatives.**

- (a) This Section governs the proposed hiring of individuals for full-time or part-time work as City employees who are members of the immediate family of City employees or elected officials. "Immediate family" includes those relatives by blood or marriage defined in Section 2.5.2(e) as personal interests.
- (b) Hiring an immediate family member of any current City employee or elected City official will be considered only if that individual has the knowledge and skills, experience or other job-related qualifications that warrant consideration for the position. A person can

not be hired for either full-time or part-time employment in a position immediately supervised by a member of that person's immediate family:

- (c) This Section does not apply to non-elected officials who are asked to accept appointment as members of a City board, commission or committee; non-elected officials, however, will be expected to disqualify themselves from participation in matters under consideration which may affect the hiring, retention, classification or compensation of their immediate family if currently employed or being considered for employment by the City.
- (d) No relatives of City employees may be hired first on a full-time or part-time basis without such positioning first being advertised, all applications being reviewed by the Common Council, and such hiring approved by the Common Council.

### **Section 2.5.10 Employees Covered by Collective Bargaining Agreements.**

In the event an employee, covered under a collective bargaining agreement, is allegedly involved in an Ethics Code violation, the terms and conditions set forth in the applicable collective bargaining agreement shall prevail in the administration and interpretation of this Ethics Code Chapter.

### **Section 2.5.11 Sanctions.**

- (a) Upon the written complaint of any person alleging facts which, if true, would constitute improper conduct under the provisions of this Chapter, the Common Council shall conduct an investigation of the facts of the complaint, if the investigation indicates there may be a reasonable basis for the complaint justifying further investigation, the Common Council shall conduct a hearing in accordance with the common law requirements of due process including notice, an opportunity to be heard, an opportunity to cross-examine witnesses and to present testimony and other evidence in support of the accused's position and an opportunity to be represented by counsel or other representative at the expense of the accused. The Council shall make written findings of fact and issue a written decision concerning the propriety of the conduct of the subject official or employee.
- (b) A determination that a public official's or public employee's actions constitute improper conduct under the provisions of this Chapter may constitute a cause for removal from office, termination of employment, suspension, reprimand, removal from committee assignment, or other appropriate disciplinary action. As an alternative or in addition to sanctions imposed herein, any individual violating the Ethics Code shall be subject to a non-reimbursable forfeiture.

- (c) Sanctions, including any disciplinary action, that may affect employees covered under a labor agreement will be consistent with the terms and conditions set forth in the labor agreement.

# TITLE 3

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## Finance and Public Records

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# Title 3 - Chapter 1

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## Finance

### Section 3.1.1 Fee for Returning Checks with Insufficient Funds; Reimbursement of Collection Costs.

- (a) There shall be a fee for processing checks made payable to the City that are returned because of insufficient funds in the account in question. This fee shall be set by the Hillsboro City Council by Resolution and adjusted from time to time.
- (b) Collection costs and attorneys fees shall be added to the principal amounts of unpaid bills owed to the City that are placed with collection agencies.

### Section 3.1.2 Duplicate Treasurer's Bond Eliminated.

- (a) **Bond Eliminated.** The City of Hillsboro elects not to give the bond on the City Treasurer as provided for by Sec. 70.67(1), Wis. Stats.
- (b) **City Liable For Default of Treasurer.** Pursuant to Sec. 70.67(2), Wis. Stats., the City shall be obligated to pay, in case the City Treasurer shall fail to do so, all state and county taxes required by law to be paid by such City Treasurer to the County Treasurer.

*State Law Reference:* Sec. 70.67, Wis. Stats.

### Section 3.1.3 City Budget.

- (a) **Departmental Estimates.** Annually, at a time specified by the Mayor, each officer, department, board and committee shall file with the City Administrator an itemized statement of disbursements made to carry out the powers and duties of such officer, department, board or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department, board or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the City and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.

- (b) **Preparation of Proposed Budget.**
- (1) **Preparation.** The City Administrator shall annually prepare and submit to the Council a proposed budget presenting a financial plan for conducting City affairs for the ensuing fiscal year.
  - (2) **Consideration of Estimates.** The Common Council, with the assistance of the City Administrator shall consider such departmental estimates.
- (c) **Proposed Budget.** On or before November 1, the City Administrator shall prepare and submit for consideration a proposed budget presenting a financial plan for conducting the affairs of the City for the ensuing calendar year. The budget shall including the following information:
- (1) The expense of conducting each department and activity of the City for the ensuing fiscal year and last preceding fiscal year. There shall be a rationale either orally or in writing provided for significant increases or decreases to an overall category, or fund as a whole, recommended as compared with appropriations for the current year. This shall be provided in writing if requested by the Chair of the Finance and Personnel Committee, Mayor, or Committee of the Whole.
  - (2) An itemization of all anticipated income from the City from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal year.
  - (3) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
  - (4) Such other information as may be required by the Common Council and by state law.
- (d) **Copies of Budget.** Upon preliminary approval by the Council authorizing summary budget publication, and pending the Public Budget Hearing, the City Administrator shall make available the entire fiscal budget for public inspection in the Office of the City Clerk during regular office hours.
- (e) **Hearing.**
- (1) The City Administrator or Treasurer shall ensure a summary of the proposed budget as preliminarily approved by a majority of the Council and notice of the time and place where such budget and detail is available for public inspection; and notice of the time and place for holding the public hearing thereof shall be published in the official newspaper of the City at least fifteen (15) days prior to the time of such public hearing.
  - (2) Not less than fifteen (15) days after the publication of the proposed budget and the notice of hearing thereof, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the City shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time.
  - (3) A vote of three-quarters (3/4) of the Common Council is required to adopt the proposed budget following the public hearing.

**State Law Reference:** Sec. 62.12, Wis. Stats.

### **Section 3.1.4 Changes in Budget.**

The Council may at any time, by a two-thirds (2/3) vote of the entire membership, transfer any portion of an unencumbered balance of an appropriation to any other purpose or object. Notice of such transfer shall be given by publication within ten (10) days thereafter in the official newspaper of the City.

### **Section 3.1.5 City Funds to Be Spent in Accordance with Appropriation.**

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by Section 3.1.4 of this Chapter. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to re-appropriation; but appropriations may be made by the Common Council, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

### **Section 3.1.6 Fiscal Year.**

The calendar year shall be the fiscal year.

### **Section 3.1.7 Public Depositories.**

The Common Council shall designate the public depository or depositories within this state within which City funds shall be deposited, and when the money is deposited in such depository in the name of the City, the City Administrator and/or City Treasurer and bondsman shall not be liable for such losses as are defined by state law. The City Administrator and/or Treasurer shall invest and the interest arising therefrom shall be paid into the City Treasury.

*State Law Reference:* Chapter 34 and Sec. 62.12(7), Wis. Stats.

*Cross Reference:* Section 3.1.9.

### **Section 3.1.8 Claims Against City.**

(a) **Payment of Claims.**

- (1) Payment of claims hereunder may be made from the City Treasury after the City Administrator or City Treasurer audits and approves each claim as a proper charge against the Treasury, and endorses his or her approval on the claim after having determined that the following conditions have been complied with:
  - a. That the funds are available thereof for pursuant to the budget approved by the Common Council;
  - b. That the item or service covered by such claim has been duly authorized by the proper official, department head or board or commission;
  - c. That the item or service has been actually supplied or rendered in conformity with such authorization;
  - d. That the claim is just and valid pursuant to law.
  - e. That the City Administrator or City Treasurer has the authority to pay claims such as utility bills up to Two Thousand Five Hundred Dollars (\$2,500.00); without Council approval, provided that the second signatory also signs such checks.
  - f. The City Administrator shall have the authority to pay claims and make purchases as appropriated in the annual budget.
- (b) **The City Administrator** or City Treasurer may require the submission of such proof and evidence to support the foregoing as in his/her discretion he/she may deem necessary. The City Administrator also has the right to request Council approval on any claim.
- (c) **Report to the Common Council.** The City Treasurer shall file with the Common Council a list of the claims approved, showing the date paid, name of claimant, purpose and amount.

### **Section 3.1.9 Temporary Investment of Funds Not Immediately Needed.**

The City Administrator or City Treasurer may invest any City funds not immediately needed, pursuant to Secs. 66.04(2) and 219.05, Wis. Stats.

*State Law Reference:* Secs. 66.0603 and 219.05, Wis. Stats.

### **Section 3.1.10 Facsimile Signatures.**

In lieu of the personal signatures of the Treasurer and Clerk, there may be affixed on order checks the facsimile signatures of such persons adopted by them and approved by the Common Council, but the use of the facsimile signature shall not relieve such official from any liability to which he/she is otherwise subject, including the unauthorized use thereof.

### **Section 3.1.11            Receiving Money; Receipt for Same.**

- (a) The City Treasurer or his/her deputies shall not receive any money into the Treasury from any source except on account of taxes levied and collected during the fiscal year for which he or she may then be serving, without giving a receipt therefore in the manner specified by the Common Council.
- (b) Upon the payment of any money (except for taxes as herein provided), the City Treasurer or his/her deputies shall make out a receipt in duplicate for the money so received. The Treasurer or his/her deputies shall charge the amount thereof to the Treasury and credit the proper account. The payment of the money to any receiving agent of the City or to the City shall be safeguarded in such manner as the Common Council shall direct.

*State Law Reference:* Sec. 66.0515, Wis. Stats.

### **Section 3.1.12            Statement of Real Property Status.**

The City Clerk and his/her deputies are authorized to prepare a Statement of Real Property Status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water, and sewer bills, current water and sewer bills, contemplated improvements, floodplain status, violations of the building and health codes and similar information. Any such information sought shall be provided to the person requesting it on said form. A minimum of one (1) business day is required for preparation of a statement of real property status. There shall be a fee to be determined by the City Council from time to time for compiling such information. In providing these services the City of Hillsboro and its officials assume no liability for such service nor is any warranty intended or implied.

### **Section 3.1.13            Accounts Receivable Billing Procedures.**

Billings by the City may be paid within thirty (30) days after billing without interest. Thereafter, interest may be charged at the rate of one and one-half percent (1-1/2%) per month or any fraction thereof, until the following fifteenth (15th) day of November. Bills not paid on or before the fifteenth (15th) day of November shall have added to the total amount due one and one-half percent (1-1/2%) of said charges shall be entered on the tax roll as a special charge and become a lien upon real estate.

### **Section 3.1.14            Annual Audits.**

A firm of certified public accountants shall be employed each year by the City, subject to the confirmation of the Common Council to conduct a detailed audit of the City's financial transactions and its books, and to assist the City Administrator in the management of the City's financial affairs, including the City's public utilities. These auditors shall be employed on a calendar-year basis. The books audited may, in addition to the City financial records of the office of the City Administrator, include the City Clerk and City Treasurer's books, the City's public utilities, Police Department records, and any other books of any boards, commission, officers or employees of the City handling City moneys.

### **Section 3.1.15 Liability of the City for Acts of Agents.**

No agent of the City of Hillsboro having authority to employ labor or to purchase materials, supplies or any other commodities, may bind the City or incur any indebtedness for which the City may become liable without approval of the City Council or City Administrator. Each such employment or purchase order shall be drawn against a specific appropriation, the money for which shall be available in the City treasury and not subject to any prior labor claims or material purchase orders at the time when such employment is negotiated or purchase order drawn. The City Administrator or City Treasurer shall keep a record of such employment and purchase orders and shall charge them against the proper appropriation.

### **Section 3.1.16 Procurement and Bid Solicitation Procedures.**

(a) **General Procurement Policies.**

- (1) All public improvements constructed with municipal funds are carried out through contract awarded to the lowest bid according to the requirements of Wisconsin Statutes.
- (2) Major equipment purchases are purchased from the lowest responsible bidder in accord with the City of Hillsboro purchasing policies and applicable Wisconsin State Statutes, unless approved by Common Council.

(b) **Quotations and Bids.**

- (1) **Verbal Quotation Form.** The City may solicit verbal quotations on items the City purchases, which are Ten Thousand Dollars (\$10,000.00) or less. All verbal quotations shall be recorded on a memorandum of verbal quotation form.
- (2) **Informal Quotation.** The City may solicit informal written quotations for the purchase of goods and services in an amount less than Fifteen Thousand Dollars (\$15,000.00).
- (3) **Formal Bid.** The formal bid procedure is used for purchasing goods and services in an amount of Fifteen Thousand Dollars (\$15,000.00) or greater, and in some instances in amounts less than this amount. The formal bid procedure requires a legal public notice and contains detailed, written specifications regarding the goods and

services to be purchased and a number of specific conditions associated with the purchase.

(c) **Bid Solicitation.**

- (1) When a formal bid is required or deemed to be in the best interests of the City, the bidding procedure shall follow the legal requirements associated with a Class One notice under State Statute and the procedures normally associated with the formal bid proposal.
- (2) The formal bid proposal will contain at least the following information:
  - a. The bid number.
  - b. A detailed description of the goods and services required, including enough information about the items or services required so that more than one (1) vendor can meet the specifications.
  - c. The time, date and place the bids will be opened.
  - d. The address to which the bids shall be mailed or delivered: Instructions to bidders shall include such information as delivery dates, transportation charges, proposal prices, conditions for guaranteeing the proposal, payment terms, right of rejection of proposals, right to reject merchandise, insurance requirements, alternative proposal consideration, tax information, and other appropriate information regarding the awarding and execution of the contract and contract considerations.
  - e. The bid proposal shall also include a section on special provisions including guarantees and service considerations, trade-in considerations, and other information relating to special conditions.
- (3) Specifications for all items purchased shall be developed with the full involvement and participation of the using departments. However, the City Administrator shall insure that the specifications are sufficiently broad enough that competition in the bidding process is preserved.

(d) **Blanket Purchase Orders.**

- (1) Upon authorization by the Common Council, the City Administrator or City Treasurer may issue blanket purchase orders to those few merchants from whom many repetitive purchases are made as supplies are required.
- (2) The Common Council shall determine the need to use a blanket purchase order procedure.
- (3) The bidding procedure for blanket purchase orders may follow the procedures used for other goods and services.
- (4) After a vendor has been selected, the using department or departments shall use the same purchase order number on all purchases made under the blanket purchase order. The Common Council shall authorize the individual or individuals who shall have the authority to sign for purchases under the blanket purchase order procedure.

## **Section 3.1.17      Special Assessment for Delinquent Utility Bills.**

- (a) In addition to other methods provided by law, it is hereby provided that special assessments for delinquent utility bills may be levied in accordance with the provisions of this Section, which are hereby adopted pursuant to Sec. 66.0703, Wis. Stats.
- (b) Delinquent utility bills and service charges shall be levied as a special assessment against the real property, shall become a lien thereon, and placed on the tax roll with the same effect as other City taxes unless the Common Council otherwise determines after notice and opportunity to be heard as hereinafter set forth.
- (c) If the amount due to City utilities for services is not paid when due, the City utilities shall send a notice of the delinquent bill to the customer and to the property owner pursuant to PSC 113.0301 and 113.0404, Wis. Adm. Code. If the bill is still delinquent by the month of October of the billing year, the City utilities shall send a notice of the delinquent bill to the customer and the property owner by certified mail.
- (d) The notice referred to in Subsection (b) shall contain the following statement:

*You are entitled to a hearing before the Common Council, or committee thereof, of the City of Hillsboro to dispute the amount of this charge. You must request this hearing by notifying the City Clerk in writing within ten (10) days of the date of this notice.*

- (e) The notice sent by certified mail referred to in Subsection (c) shall contain the following statement:

*You are entitled to a hearing before the Common Council, or committee thereof, of the City of Hillsboro to dispute the amount of this charge. You must request this hearing by notifying the City Clerk in writing within ten (10) days of the date of this notice.*

- (f) In the event of a request for hearing, the City Clerk shall set the date and time for hearing upon receiving a written request under Subsections (b) or (c). This hearing shall be held before the Common Council, or committee thereof, for the City of Hillsboro.
- (g) At the time of the hearing referred to in Subsection (f), the Common Council, or committee thereof, shall hear all evidence brought before it concerning the correctness of the amount billed by the City of Hillsboro in accordance with this Section. At the conclusion of this hearing, the Common Council, or committee thereof, shall decide the amount due the City, and all parties in attendance shall be notified of the decision.
- (h) If the amount determined to be due to the City after the hearing referred to in Subsection (f) is not paid within five (5) days from the date of the Council's or committee's decision, then this amount shall become a lien upon the real estate served by the services referred to in Subsection (c). This shall be accomplished pursuant to the power granted to the City of Hillsboro by Secs. 62.69(2)(f) and 66.0703, Wis. Stats.



- (i) If a hearing is not requested in accordance with this Section, the amount due the City of Hillsboro or the City public utilities shall become a lien upon the real estate served by the services referred to in Subsection (c) upon the expiration of twelve (12) days from the mailing of the notice referred to in Subsections (d) and (e).

### **Section 3.1.18 Delinquent Personal Property Taxes.**

- (a) Pursuant to the authority of Sec. 74.47(2), Wis. Stats., the City hereby imposes a penalty of one-half percent (0.5%) per month or fraction of a month, in addition to the interest prescribed by Sec. 74.47(1), Wis. Stats., on all overdue or delinquent personal property taxes retained for collection by the City or eventually charged back to the City by the County for purposes of collection under Sec. 74.31, Wis. Stats.
- (b) This penalty of one-half percent (0.5%) per month or fraction of a month shall apply to any personal property taxes which are overdue or delinquent.

### **Section 3.1.19 Policy for Public Deposits and Investments.**

- (a) **Purpose.** Cash and investments generally represent the largest asset on the City's balance sheet, and the City frequently has cash available for short-term, intermediate and long-term investments. Therefore, it is important that the City establish a policy to ensure continuous prudent investment of available City funds. It is in the interest of the City of Hillsboro to adopt a policy to insure continuous prudent deposits and investments of available City funds. The Common Council of the City of Hillsboro establishes the following policies in the public interest for the deposit and investment of available City funds.
- (b) **Public Depositories.**
  - (1) **Depositories.** The Common Council shall, by ordinance or resolution, designate one (1) or more public depositories, organized and doing business under the laws of this state or federal law, and located in Wisconsin, in which the City Treasurer shall deposit all public monies received by her/him.
  - (2) **Limitations.** The resolution or ordinance designating one (1) or more public depositories shall specify whether the monies shall be maintained in time deposits subject to the limitations of Sec. 66.0603, Wis. Stats., demand deposits or savings deposits, and whether a surety bond or other security shall be required to be furnished under Sec. 34.07, Wis. Stats., by the public depository to secure the repayment of such deposits. Not more than Five Hundred Thousand Dollars (\$500,000) shall be deposited in any one (1) public depository, unless specifically authorized by the Common Council.
  - (3) **Deposits.** The City Treasurer shall deposit public monies in the name of the City of Hillsboro in such public depositories designated by the Common Council and subject to the limitations hereinabove set forth.

- (4) **Withdrawals.** Withdrawals or disbursements by the City Treasurer of monies deposited in a public depository shall be made as provided by Sec. 66.0607, Wis. Stats. The City Treasurer is authorized, at her/his discretion, to process periodic payments through the use of money transfer techniques as set forth in Sec. 66.0607, Wis. Stats.
- (c) **Investments.**
  - (1) **Management.** Subject to the provisions of this policy, the City Administrator and City Treasurer shall have control of and discretion in the investment of all City funds that are not immediately needed and are available for investment.
  - (2) **Intent.** It is the intent of the Common Council that the City Administrator and City Treasurer utilize a wise and prudent cash management system within the level of their expertise in such a manner to insure maximum investment earnings, while at the same time be able to respond promptly to authorized expenditures. Safety, liquidity and yield will be the prime requisites for the investment of City funds.
  - (3) **Scope.** This policy is limited in its application to funds which are not immediately needed and are available for investment. Other funds, the investment of which is subject to special federal and/or state laws and regulations, shall be invested in accordance with such laws and regulations to the extent they may be inconsistent with the provisions of this policy.
  - (4) **Responsibility.** In exercising their investment responsibilities, the City Administrator and City Treasurer shall exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity, having the same resources, and familiar with like matters in the management of a similar activity, with a like purpose.
- (d) **Investment Factors.** The City Administrator and City Treasurer are authorized and directed to utilize investment options as set forth within these guidelines, and that the City Treasurer shall take into consideration the following factors which are listed in order of priority to the investment decision:
  - (1) **Certificates of Deposit.** City funds may be invested in certificates of deposit maturing within one (1) year or less from the date of investment issued by any banks, savings and loan associations or credit unions which are authorized to transact business in the State of Wisconsin. The financial institutions must have been designated as a public depository of the City by resolution or ordinance of the Common Council.
  - (2) **Government Bonds and Securities.** City funds may be invested in United States government bonds or securities which are direct obligations of or guaranteed as to principal and interest by the federal government; and, bonds or securities which are obligations of any agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal government. The securities must be purchased through financial institutions authorized to conduct business in the State of Wisconsin and placed in safekeeping in a segregated account in the City's name at any designated public depository or approved financial institution.

- (3) **Government Investment Pool.** City funds may be invested in the Wisconsin Local Government Pool Investment Fund without restriction as to the amount of deposit or collateralization.
  - (4) **Repurchase Agreements.** City funds may be invested in repurchase agreements, in financial institutions authorized to conduct business in the State of Wisconsin. Repurchase agreements can only be made in securities which are direct obligations of or guaranteed as to principal and interest by the federal government; and, securities which are obligations of an agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal government. Securities purchased by a repurchase agreement must be placed in safe-keeping in a segregated account in the City's name at any designated public depository or approved financial institution.
  - (5) **Wisconsin Investment Trust.** City funds may be invested in the Wisconsin Investment Trust without restrictions as to the amount of deposit or collateralization.
  - (6) **Savings Deposit.** City funds may be temporarily invested in savings deposits.
  - (7) **Securities.** The City Administrator and City Treasurer may invest in private securities which are senior to, or on a par with, a security of the same issuer which is rated highest or second highest by Moody's Investors Service, Standard & Poor's Corporation or other similar nationally recognized rating agency.
- (e) **Safety.**
- (1) In order to safeguard investments and deposits, the City shall acquire of each public depository its annual financial statements and evaluate such statements as to the financial soundness of the depository. Also to be reviewed are other pertinent financial information filed with regulatory agencies.
  - (2) The City shall require, when investing in repurchase agreements, that collateral be pledged by the depository in an amount equal to or greater than the amount of the repurchase agreements the City has with such depository. In excess of FDIC coverage, the collateral shall be direct obligations of the United States, or of its agencies if the payment of principal and interest is guaranteed by the federal government, or obligations of the State of Wisconsin, or of the City of Hillsboro. Evidence of such collateral shall be provided by the depository.
  - (3) Consideration shall also be given to the total amount of existing City funds which are already in such depository and/or the capacity of the depository to handle the size of the deposit or investment with consideration of federal depository insurance and State of Wisconsin Guarantee Fund requirements.
- (f) **Liquidity.**
- (1) The maturity of any investment shall be determined by analyzing the following factors:
    - a. Immediate cash requirements.
    - b. Projected expenditures.
    - c. Available funds on hand.
    - d. Maturing investments.
    - e. Anticipated revenues.

- (2) Investments shall not extend beyond any recognized unfunded cash needs of the City. Major consideration of maturity dates should be given to requirements of the payroll, debt service, and the bi-monthly bills and claims.
- (g) **Yield.**
- (1) Yield shall be the final determining factor of the investment decision.
  - (2) Bids shall be required of all investments that exceed both One Hundred Thousand Dollars (\$100,000) and a thirty (30) day or longer maturity date. A minimum of three (3) bids from the City's public depository list shall be acquired. Exceptions to the bid process include only the purchase of obligations of the U.S. Treasury and deposits in the Wisconsin Local Government Investment Pool, which shall be registered in the City's name.
- (h) **Miscellaneous.**
- (1) **Liability.** Notwithstanding any other provision of law, the City Treasurer who deposits public monies in any public depository, in compliance with Sec. 34.05, Wis. Stats., is, under the provisions of Sec. 34.06, Wis. Stats., relieved of any liability for any loss of public monies which results from the failure of any public depository to repay to the public depositor the full amount of its deposits, thus causing a loss as defined in Sec. 34.01(2), Wis. Stats.
  - (2) **Definitions.** Words or phrases shall, insofar as applicable, have the meaning set forth in Sec. 34.01, Wis. Stats., as amended.
  - (3) **Conflicts.** This Section is enacted in accordance with the provisions of Chapter 34 and Secs. 66.0601, 66.0603, and 66.0607, Wis. Stats. In case of conflict, the state laws shall prevail.

*Cross-Reference:* Section 3.1.7.

*State Law Reference:* Chapter 34 and Secs. 66.0601, 66.0603, and 66.0607, Wis. Stats.

## **Section 3.1.20 Expenditures by Committees.**

Committees of the Common Council may make purchases if the item to be purchased is authorized in the approved City budget.

## **Section 3.1.21 Hotel and Motel Room Tax**

- (a) **Definitions.**
- (1) **Hotel, Motel and Transient.** Shall have the meanings set forth in sec. 77.52 (2)(a)1, Wis. Stats.
  - (2) **Gross Receipts.** Shall have the meaning as defined in Sec. 77.51(4)(a), Wis. Stats.
  - (3) **Bed and Breakfast Establishments.** Any place of temporary lodging that provides four (4) or fewer rooms for rent, which is open for rental more than (10) nights in a twelve (12) month period, is the owner's personal residence and is occupied by the owner at the time of rental, and in which the only meal served is breakfast.

- (b) **Imposition of Tax.** Pursuant to Sec. 66.0615(1m)(a), Wis. Stats., a tax is hereby imposed on the privilege and services of furnishing, at retail, of rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of accommodations. Such tax shall be at the rate of five percent (5%) of the gross receipt from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Sec. 77.52, Wis. Stats.
- (c) **Collection of Tax.**
- (1) **Administration by City Treasurer.** This tax shall be administered by the City Treasurer who shall, at City expense, provide the necessary application and reporting forms at no cost to the taxpayer.
  - (2) **Quarterly Report of Gross Receipts.** Each retailer engaged in furnishing such accommodations, rooms, or lodging, as defined in this Chapter, shall submit a quarterly report to the City Treasurer's Office showing the gross receipts from furnishing such accommodations, rooms, or lodging, along with a copy of his/her state sales tax report for the business, along with the five percent (5%) tax for the gross receipts as reported, by not later than thirty (30) days from the end of each calendar quarter for the receipts of the past calendar quarter.
  - (3) **Sale or Conveyance of Business.** If any person liable for any amount of tax under this Chapter sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient portion of the purchase price to cover such amount until the former owner produces a receipt from the City Treasurer that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this Chapter fails to withhold such amount of tax from the purchase price as required, he/she shall become personally liable for the payment of the amount required to be withheld by him to the extent of the price of the accommodations valued in money.
- (d) **Penalties.**
- (1) **Failure to File Return, Interest or Unpaid Taxes.** All unpaid taxes under this Chapter shall bear interest at the legal rate from the due date of the return. Failure to pay the tax, or delinquent payment of such taxes, shall be subject to a late filing fee as set by the City Council from time to time in addition to the interest imposed in this section.
  - (2) **False or Fraudulent Return Penalty.** If a false or fraudulent return is filed with the intent in either case to defeat or evade the tax imposed by this Chapter, a penalty of twenty-five percent (25%) or five thousand dollars (\$5,000) whichever is less, of the tax imposed and is due and owing within thirty (30) days after the due date of said return.
  - (3) **Confidentiality.** The reports and information submitted by retailers in compliance with section c(2) are confidential and shall not be released or disclosed to any person, except those using the information in the discharge of duties imposed by law or the duties of their office or by order of a court. Statistics or other information published

by the City, relating to hotel and motel room taxes, will not disclose the identity of particular returns. Any person violating the provisions of this subsection or failing to comply with the duties or requirements stated herein may be required to forfeit not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

## Title 3 - Chapter 2

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### Special Assessments

#### Section 3.2.1 Common Council May Levy Special Assessments.

- (a) The City of Hillsboro, by resolution of its Common Council, may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement. In addition to other methods approved by law, special assessments for any public work or improvement or any special charge for current services may be levied in accordance with the provisions of this Chapter.
- (b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Common Council.
- (c) The favored procedure in the City for proceeding with making specially assessable public improvements as generally set forth in this Chapter is not intended in any way to disregard or to bar proceeding under other methods provided by law for making of public improvements and for the levying of assessments therefor. Nor is this Chapter intended to be an exhaustive, detailed recodification of the state law under said statutory section. Detailed requirements still require reference to said statutory section and the subsections thereunder. The purpose hereof is to generally define and establish local procedures.

*State Law Reference:* Sec. 66.0701, Wis. Stats.

## **Section 3.2.2 Resolution and Report Required.**

- (a) Public improvements carried out pursuant to Sec. 66.0703, Wis. Stats., and this Chapter shall be initiated by a preliminary resolution presented to the Council by the City Engineer, which resolution shall declare the Council's intention to exercise its assessment powers for such municipal purpose(s), describe the same, the limits of the proposed assessment district, the number of installments in which special assessment may be paid or that the number of installments will be determined at hearing thereon, and direct the City Engineer to make a report thereon. After adoption of such preliminary resolution by the Common Council, copies thereof shall be forwarded by the City Clerk to the City Engineer. The City Clerk shall forthwith, after adoption of such preliminary resolution, obtain a list of the names and addresses of all interested persons, if with reasonable diligence their names and addresses may be obtained, and forward the same to the City Engineer. Upon receipt of copy of such preliminary resolution, the City Engineer shall prepare the report thereon.
- (b) The report required by Subsection (a) shall consist of:
  - (1) Preliminary or final plans and specifications.
  - (2) An estimate of the entire cost of the proposed work or improvement.
  - (3) An estimate, as to each parcel of property affected, of:
    - a. The assessment of benefits to be levied.
    - b. The damages to be awarded for property taken or damages.
    - c. The net amount of such benefits over damages or the net amount of such damages over benefits.
  - (4) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimates required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
  - (5) A copy of the report when completed shall be filed with the City Clerk for public inspection.
- (c) When the Common Council determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or rendering of the service, the report required by Sec. 66.0703(4), Wis. Stats., and Subsections (a) and (b) above shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

## **Section 3.2.3 Costs That May Be Paid by Special Assessment.**

The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the City and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may



reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Common Council.

### **Section 3.2.4 Exemptions; Deductions.**

- (a) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the City.
- (b) A parcel of land against which has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts shall be entitled to such deduction or exemption as the Common Council determines to be reasonable and just under the circumstances of each case when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which such corner lot abuts. Under any circumstances the assessment will not be less than the long way of such lot. The Common Council may allow a similar deduction or exemption from special assessments levied for any other public improvement.

### **Section 3.2.5 Notice of Proposed or Approved Project.**

- (a) **Notice Requirements.** On the completion and filing of the report and final resolution with the City Clerk required in Section 3.2.2(b)(5) of this Chapter, the City Clerk or City Engineer shall prepare a Notice of Hearing, which notice shall comply with Sec. 66.0703(7), Wis. Stats., and state the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district and the place and time at which the report may be inspected. In publishing the Notice of Hearing, the City Clerk shall set the place and time at which all interested persons, their agents or attorneys may appear before the Common Council or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be signed by the City Clerk who shall cause the same to be published at least once in the official newspaper and shall mail a copy of such notice at least ten (10) days before the hearing to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10) days and not more than forty (40) days after the publication or mailing of said notice.
- (b) **Waiver of Notice, Assessments Under.** The Council may, without any notice of hearing, levy and assess the whole or any part of the cost of any municipal work or whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specifically benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment. In such cases, the procedure shall be the same as hereinbefore provided excepting for the noticing and holding of public hearing thereon.

## **Section 3.2.6 Council Actions After Hearing.**

- (a) After the hearing, the Common Council may:
  - (1) Approve, disapprove, modify or re-refer the report to the City Engineer with such directions as it deems necessary to change the plans and specifications as to accomplish a fair and equitable assessment.
  - (2) Continue the public hearing, preliminarily approve plans and specifications and, if the project requires advertising for bids, authorize and direct the advertisement therefor with a date certain for consideration and taking action thereon, inclusive of action on said report and action on final resolution.
- (b) If an assessment be made against any property and an award of compensation or damage be made in favor of the property, the Common Council shall assess only the difference between such assessment of benefits and the award of compensation or damage.
- (c) If the work or improvement has not been previously authorized or approved, the Common Council shall approve the work or improvement and by resolution direct that the same be done and paid for in accordance with the report finally approved.
  - (1) If the work or improvement has been approved by the Common Council or work commenced or completed prior to the filing of the report or prior to the hearing, then the Common Council shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.
- (d) The City Clerk shall publish the final resolution as required in Section 3.2.2 of this Chapter.
- (e) After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by Sec. 66.0703(12), Wis. Stats., or any other applicable provision of law.
- (f) As soon as the assessable cost of such work or improvement is finalized, the City Clerk shall issue respective special assessment certificates for each property affected and specifying the manner in which payment is to be made and shall send copy of the respective assessment affecting each property to each owner's post office address that is known or can be obtained with reasonable diligence.

## **Section 3.2.7 Combined Assessments.**

If more than a single improvement is undertaken, the Common Council may combine the assessments as a single assessment on each property affected except that the property owner may object to any one or more of said improvements.

### **Section 3.2.8 Council's Power to Amend, Cancel or Confirm Special Assessment.**

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the Common Council determines to reconsider an assessment, it is empowered, after giving notice as required in Section 3.2.5 to amend, cancel or confirm any prior assessment; and notice of this amending, canceling or confirming be given by the City Clerk as provided in Section 3.2.6 of this Chapter.

### **Section 3.2.9 Where Cost of Improvement is Less Than Assessment.**

If the cost of the work or improvement is less than the assessment levied, the Common Council without notice or hearing shall reduce each assessment proportionately. If the assessment has been paid either in part or in full, the City shall refund the property owner such overpayment.

### **Section 3.2.10 Appeals; Appealed Assessments Payable When Due.**

- (a) Any person against whose property a special assessment is levied under this Chapter may appeal therefrom in the manner prescribed by Sec. 66.0703(12), Wis. Stats., as amended, within forty (40) days of the date of the final determination of the Common Council.
- (b) Pursuant to Sec. 66.0703(12)(f), Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable, and upon default in payment any such appeal shall be dismissed.

### **Section 3.2.11 Payment of Special Assessments; Special Assessment a Lien on Property.**

- (a) **Payment of Special Assessments.**
  - (1) *Without Interest.* Upon receipt of copy of special assessment certificate, any person may pay the same in full, without interest, if paid to the City Clerk within the grace period therein allowed and as allowed in the final resolution.
  - (2) *After grace period.* If any special assessment, or any part thereof, remains unpaid following the running of the grace period specified for payment without interest, at time of preparation of the first tax roll thereafter the same, together with interest computed thereon at the interest rate established in said final resolution and in said

- certificates computed from the date of levy (i.e., date of final resolution) or the finalizing of assessable costs, whichever is later, shall be entered in such tax roll in such manner as directed in said final resolution and certificate; thereafter, if the same be payable in installments, subsequent installments together with interest at said rate computed on declining balance shall be entered in subsequent tax rolls until fully paid. This provision is in no way intended to prohibit the prepayment of the balance owing at any time on principal together with interest to date of payment only.
- (b) **Assessment a Lien.** Pursuant to Sec. 66.0703(13), Wis. Stats., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the City. The Common Council shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Common Council shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

### **Section 3.2.12 Special Charges Permissible.**

- (a) **Special Charges Authorized.** In addition to all other methods provided by law, special charges for current services rendered may be imposed by the City by allocating all or part of the cost to the property served. Such may include, without limitation because of enumeration:
- (1) Snow and ice removal;
  - (2) Lawn and weed elimination;
  - (3) Water bills and water furnished;
  - (4) Electric bills for electric energy;
  - (5) Sewer use charges;
  - (6) Tree care;
  - (7) Refuse collection;
  - (8) Fees, property taxes, fines, forfeitures, room taxes, registration fees and any other item or amount owed to the municipality by one or more of the property owners.
- (b) **Payment.** If the amounts due the City of Hillsboro for the current services are not paid within twenty (20) days of the date of billing, the City Clerk shall send a notice of the delinquent bill to the customer and to the property owner by mail.
- (c) **Notice; Hearing.**  
The notice referred to in Subsection (b) shall contain the following statement:

*"You are entitled to a hearing before the Common Council of the City of Hillsboro to dispute the amount of this charge. You must request this hearing by notifying the City Clerk in writing within ten (10) days of the date this notice was mailed."*

- (1) The City Clerk shall set the date and time for hearing upon receiving a written request. This hearing shall be held before the Common Council of the City of Hillsboro.
  - (2) At the time of the hearing referred to in Subsection (c)(1) above, the Common Council shall hear all evidence brought before it concerning the correctness of the amount billed by the City of Hillsboro in accordance with this ordinance. At the conclusion of this hearing, the Common Council shall decide the amount due the City of Hillsboro. All parties in attendance shall be notified of the Council's decision.
  - (3) If the amount determined to be due the City of Hillsboro, after the hearing is not paid within five (5) days from the date of the Council's decision, then this amount shall become a lien upon the real property served by the current service referred to in Subsection (a) above. This shall be accomplished pursuant to the power granted the City of Hillsboro by Sec. 66.0703, Wis. Stats.
  - (4) If a hearing is not requested in accordance with this Section, then the amount due the City of Hillsboro shall become a lien upon the real property served by the current service referred to in Subsection (a) upon the expiration of twelve (12) days from the date the notice referred to in Subsection (c)(1) above was mailed. This shall be accomplished pursuant to the power granted the City of Hillsboro by Sec. 66.0703, Wis. Stats.
  - (5) This Section shall not prevent the City of Hillsboro or its utilities from disconnecting service for nonpayment of bills.
- (d) **Lien.** Special charges for current services shall not be payable installments. If not paid within the period fixed by the Common Council such delinquent special charges, pursuant to Section 3.2.11, shall become a lien on said property as of the date of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, as provided by Sec. 66.0703, Wis. Stats., and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge. Notice of special charges for current services need not be given except as required by Sec. 66.0703, Wis. Stats., as amended.
- (e) **Miscellaneous Provisions.** Section 3.2.2(a) of this Chapter shall not be applicable to proceedings under this Section.

*State Law Reference:* Sec. 66.0703, Wis. Stats.

### **Section 3.2.13            Miscellaneous Provisions.**

- (a) If any assessment or charge levied under this Chapter is invalid because such Statutes are found to be unconstitutional, the Common Council may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.
- (b) The Common Council may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.

- (c) Notwithstanding any other provision of law, or this or other ordinance or resolution, it is specifically intended and provided by this Chapter that the City may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

### **Section 3.2.14            Billing for Fire Calls.**

- (a) The City of Hillsboro may bill the owner of real (i.e., real estate) or personal (i.e., vehicles) property to which a fire response is made by the Fire Department the expense of the Department's fire response and fire control measures. The Common Council, in consultation with the Fire Department, shall adopt a fee schedule for types of fire protection services. Bills shall be payable within thirty (30) days of the statement date; if not paid within such thirty (30) days, interest will accrue at the rate of one and one-half (1-1/2%) percent per month. Bills not paid by November 1st shall be added as a special charge upon the real estate tax rolls, pursuant to Sec. 66.0627, Wis. Stats. The Common Council may modify or waive such billing requirements when in the public interest due to unique circumstances regarding the fire or fire call.

# Title 3 - Chapter 3

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## Public Records

### Section 3.3.1 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Authority.** Any of the following City of Hillsboro entities having custody of a City record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.
- (b) **Custodian.** That officer, department head, division head, or employee of the City designated under Section 3.3.3 or otherwise responsible by law to keep and preserve any City records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this Section to respond to requests for access to such records.
- (c) **Record.** Any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.
- (d) **Direct Cost.** The actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.
- (e) **Actual Cost.** The total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

### Section 3.3.2 Duty to Maintain Records.

- (a) Except as provided under Sections 3.3.7 and 3.3.8, each officer and employee of the City shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the

possession or control of which he or she or they may be lawfully entitled as such officers or employees.

- (b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the City Clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the City Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

### **Section 3.3.3 Legal Custodian(s).**

- (a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate the City Clerk to act as the legal custodian.
- (b) Unless provided in Subsection (c), the City Clerk or the City Clerk's designee shall act as legal custodian for the City and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Common Council. The following offices or authorities shall have as a legal custodian of records the individual so named.

<b>Authority</b>	<b>Designated Legal Custodian</b>
General City Records (including Council Records)	City Administrator and City Clerk
Fire Department	Fire Chief
Police Department	Chief of Police
Ambulance Services	Ambulance Director

- (c) As the custodian of the records of the City, the individuals in the positions designated in Subsection (b) shall be responsible to the Common Council for a timely response to any request for access to the public records of the City. The custodian shall be responsible for the release of the public records of the City, the conditions under which records may be inspected, and the collection of costs for the location, reproduction, and/or mailing or shipping of such records, as well as for the preparation of written statements denying access in whole or in part.

It is directed that all employees of the City be informed in writing that the above described officers have been designated the custodians of the public records of the City. Employees shall further be informed of the duties of the custodians and shall also be made aware of the other requirements and provisions of this policy.



- (d) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.
- (e) Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the City Clerk.
- (f) The City Clerk shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis.

### **Section 3.3.4 Public Access to Records.**

- (a) **Powers of the Custodian of the Records of the City.**
  - (1) All requests for the release, inspection and/or reproduction of the public records of the City shall be directed or referred to the responsible custodian.
  - (2) The custodian is hereby vested with full legal power to make all necessary decisions relative to the withholding of or release, inspection and reproduction of public records and is further granted all authority necessary to carry out all duties and responsibilities required by either the Wisconsin Public Records Law [Secs. 19.31-19.39, Wis. Stats.] or this Chapter.
- (b) **Access Policies.**
  - (1) Except as provided in Section 3.3.6 any person has a right to inspect a record and to make or receive a copy of any record of provided in Sec. 19.35(1), Wis. Stats.
  - (2) Records will be available for inspection and copying during all regular office hours.
  - (3) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least forty-eight (48) hours advance notice of intent to inspect or copy.
  - (4) A requester shall be permitted to use facilities comparable to those available to City employees to inspect, copy or abstract a record.
  - (5) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- (c) **Adoption of Fee Schedule Regarding the Costs for the Location and/or Reproduction of the Records of the City.**
  - (1) The Common Council hereby adopts a fee schedule in accord with Sec. 19.35(3), Wis. Stats., to cover the actual costs relating to the location, reproduction and mailing or shipping of any of the records of the City. It is intended that this fee schedule shall cover the payment of the actual, necessary and direct costs incurred in locating a document, in providing any person with a reproduction of any of the records of the City and in sending the same to the requestor. This schedule shall be reviewed periodically by the Common Council and adjusted by motion or resolution as the need arises. Exceptions to the fee schedule may be considered by the custodian.

- (2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
  - (3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- and video-tapes, shall be charged.
  - (4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
  - (5) There shall be no charge for locating a record unless the actual cost therefor exceeds Fifty Dollars (\$50.00), in which case the actual cost shall be determined by the legal custodian and billed to the requester.
  - (6) The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars (\$5.00).
  - (7) Elected and appointed officials of the City shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
  - (8) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- (d) **Notice.**
- (1) Pursuant to Sec. 19.34(1), Wis. Stats., the City hereby adopts a Notice as the official means of advising the public of the procedure of the City in responding to requests for release, inspection or reproduction of the records of the City.
  - (2) The Notice is intended to provide all necessary information which might be required by a member of the public in order to obtain access to the records of the City. Any questions in regard to the Notice shall be directed to the custodian of the records of the City.
  - (3) The Notice may be modified from time to time by Common Council action, but absent such modification, the decisions of the custodian of the records of the City shall be in conformity with its provisions.
  - (4) Pursuant to Sec. 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This Subsection does not apply to members of the Common Council.
- (e) **Indemnification of the Custodian of the Records of the City.** Any costs or fees incurred by the legal custodian of the records of the City shall be directly reimbursed by the City to the custodian and shall not be treated as the personal liability of the custodian.
- (f) **Separation of Information.** If a record contains information which may not be made public, the custodian shall separate from it such information as may be made public and make the latter available for inspection and reproduction. There shall be no fee charged for separation costs.

### **Section 3.3.5 Access Procedures.**

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Sec. 19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 3.3.4(c)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.
- (b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the City Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.
- (c) A request for a record may be denied as provided in Section 3.3.6. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Sec. 19.37(1), Wis. Stats., or upon application to the attorney general-or a district attorney.

### **Section 3.3.6 Limitations on Right to Access.**

- (a) As provided in Sec. 19.36, Wis. Stats., the following records are exempt from inspection under this Chapter.
  - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
  - (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
  - (3) Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and
  - (4) Pursuant to Sec. 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a common law trade secret. "Trade secrets" are defined as

- unpatented, secret, commercially valuable plans, appliances, formulas, or processes which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.
- (b) As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Section.
- (c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the City Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
- (1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
  - (2) Pursuant to Sec. 19.85(1)(a), Wis. Stats., records of current deliberations after a quasijudicial hearing.
  - (3) Pursuant to Sec. 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any City officer or employee, or the investigation of charges against a City officer or employee, unless such officer or employee consents to such disclosure.
  - (4) Pursuant to Sec. 19.85(1)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.
  - (5) Pursuant to Sec. 19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of City property, investing of City funds, or other City business whenever competitive or bargaining reasons require nondisclosure.
  - (6) Pursuant to Sec. 19.85(1)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
  - (7) Pursuant to Sec. 19.85(1)(g), Wis. Stats., communications between legal counsel for the City and any officer, agent or employee of the City, when advice is being rendered concerning strategy with respect to current litigation in which the City or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under Sec. 905.03, Wis. Stats.
  - (8) Pursuant to Sec. 19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board, and records of advice given by such ethics board on such requests.
- (d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the City Attorney prior to releasing any such record and shall follow the guidance of the City Attorney when separating out the exempt material. If, in the judgment of the custodian and the City Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably

jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

- (e) Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to Sec. 70.47(7)(af), Wis. Stats., or any successor statute thereto, then such income and expense information that is provided to the Assessor shall be held by the Assessor on a confidential basis, except, however, that the information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the Assessor in performance of official duties of the Assessor's office and use by the Board of Review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the Assessor under Sec. 70.47(7)(af), Wis. Stats., unless a court determines that it is inaccurate, is, per Sec. 70.47(7)(af), not subject to the right of inspection and copying under Sec. 19.35(1), Wis. Stats.

### **Section 3.3.7 Retention and Destruction of Records.**

- (a) **Historical Records.** Under Sec. 19.21(4)(a), Wis. Stats., municipalities must notify the State Historical Society of Wisconsin (SHSW) prior to destroying records. However, the SHSW has waived the required sixty (60) days notice for any record marked "W" (waived notice). SHSW must be notified prior to destruction of a record marked "N" (non-waived). Notice is also required for any record not listed in this Section.
- (b) **Microfilming or Optical Imaging of Records.** Local units of government may keep and preserve public records through the use of microfilm providing the microfilm or optical imaging meets the applicable standards in Sec. 16.612, Wis. Stats. Retention periods and estimated costs and benefits of converting records between media should be considered. After verification, paper records converted to microfilm or optical imaging should be destroyed. The retention periods identified in this Section apply to records in any media.
- (c) **Destruction After Request for Inspection.** No requested records may be destroyed until after the request is granted or sixty (60) days after the request is denied. If an action is commenced under Sec. 19.37, Wis. Stats., the requested record may not be destroyed until after a court order is issued and all appeals have been completed. [See Sec. 19.35(5), Wis. Stats.]
- (d) **Destruction Pending Litigation.** No record subject to pending litigation shall be destroyed until the litigation is resolved.
- (e) **Review and Approval By Public Records and Forms Board.** This Chapter and the retention periods of less than seven (7) years have been reviewed and approved by the Public Records and Forms Board.
- (f) **Legend.** The following terms shall be applicable in Sections 3.3.7 and 3.3.8:
  - (1) **Records Description.** Provides a brief description of the records. Group specific items such as forms into logical groups that have the same function or purpose.
  - (2) **Period of Retention.** Refers to the time that the identified records must be kept until destruction.
    - a. **CR** stands for creation which usually refers to receipt or creation of the record.

- b. **FIS** stands for current fiscal year and the additional amount of time as indicated.
  - c. **EVT** stands for event and refers to an occurrence that starts the retention "clock ticking." Close of contract, termination of employees, and disposition of a case are common events.
  - d. **P** stands for permanent retention.
- (3) **Time.** Is expressed in years unless specifically identified as month or day.
- (4) **Authority.** Refers to any specific statutory, administrative rule, or specific regulation that determines retention of the record. In most cases this will be blank because units of government have discretion to establish a time period.
- (5) **SHSH Notify.** Refers to whether or not the State Historical Society of Wisconsin has waived the required statutory notification prior to destruction of records.
- a. **W** means records are not historical and the required notification is waived.
  - b. **N** means the records may have secondary historical value and therefore SHSW notification is required on a case-by-case basis prior to destruction.
  - c. **N/A** means not applicable and refers to those circumstances where a local unit of government is retaining a record permanently.

### Section 3.3.8 Specific Records Retention Provisions.

- (a) **Accounting Records.** The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority Period of Retention	SHSW Notice
Accounts Payable:		
Purchase invoices	FIS + 7 years	W
Vouchers	FIS + 7 years	W
Accounts Receivable:		
A/R invoices	FIS + 7 years	W
Receipts	FIS + 7 years	W
Collection blotters	EVT + 1 year (after audit)	W

- (b) **Board of Review Records.** The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority Period of Retention	SHSW Notice
Form of objection to property assessment and supporting documentation	EVT + 7 years (after final action by Board of Review or completion of appeal)	W

Minute book of Board of Review	CR + 7 years	N
Proceedings of the Board of Review on audio taps or as stenographic notes including any transcriptions thereof	EVT + 7 years (after final action by Board of Review or completion of appeal)	W
Notice of Determinations of the Board of Review	EVT + 7 years (after final action by the Board of Review or completion of appeal)	W

(c) **Budget and Audit Records.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Authority Period of Retention</b>	<b>SHSW Notice</b>
Budget worksheets	FIS + 3 years	W
Minutes of the board of estimates	Permanent	N/A
Final budget	Permanent	N/A
Audit reports	Permanent	N/A

(d) **Building Permits and Inspection Records.** The following records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Authority Period of Retention</b>	<b>SHSW Notice</b>
Applications and permits	EVT (Life of structure)	W
Code Compliance inspection-reports	EVT (Life of structure)	W
Inspection address file	EVT (Life of structure)	W

Certificates of occupancy	EVT (Until superseded)	W
Energy calculation worksheets	CR + 3 years	
State approved commercial building plans	EVT + 4 years	W
Permit fee receipts	FIS + 7 years (provided record has been audited)	W
Permit ledger	CR + 7 years	W
City attorney's case	EVT + 1 year (after case file, copy has been closed)	W
Quarter section maps, copies	EVT (Until superseded)	W
Records of the Zoning Board of Appeals (includes minutes of board and supporting documents submitted to Board)	Permanent	N/A
Records of the Plan Commission (includes minutes of meetings of Commission and supporting documents submitted to the Commission)	Permanent	N/A

(e) **Election Records.** All materials and supplies associated with an election may be destroyed according to the following schedule unless there is a recount or litigation pending with respect to the election:

<b>Records</b>	<b>Authority Period of Retention</b>	<b>SHSW Notice</b>
Voter serial number	EVT + (14 days after a	



slips	primary) (21 days after an election)	W
Applications for absentee ballots	EVT + (90 days after the election) (22 months after the election for federal offices)	W
Forms associated with election such as tally sheets, inspector's statements and nomination papers	EVT + (90 days after the election) (22 months after the election for federal offices)	W
Official canvass statements	EVT + (10 years after the election)	W
Registration and poll lists Nonpartisan primaries and elections	EVT + (2 years after the election for which they were created)	W
Registration and poll lists Partisan primaries and general election	EVT + (4 years after the election for which they were created)	
Cancelled registration cards	EVT + (4 years after cancellation)	W
Election notices	EVT + (1 year after the election) (22 months for federal elections)	W
Proofs of publication and correspondence relative to publications	EVT + (1 year after the election) (22 months for federal elections)	W
Campaign registration statements	EVT + (6 years after termination by the registrant)	W
Campaign finance reports	EVT + (6 years after date of receipt)	W

(f) **Engineering and Public Works Records.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Authority</b> <b>Period of Retention</b>	<b>SHSW Notice</b>
Field notes	Permanent	N/A
Benchmark books	Permanent	N/A
Section corner monument logs	Permanent	N/A
Aerial photographs	EVT (Until superseded)	W
City maps	Permanent	N/A
Water, storm, and sanitary sewer main maps	Permanent	N/A
Profile & grade books	Permanent	N/A
Excavation plans of private utilities	Permanent	N/A
Index to maps	Permanent	N/A
Preliminary subdivision plats	EVT (Until superseded by final plat)	W
Final subdivision plats	Permanent	N/A
Annexation plats	Permanent	N/A
Assessor's plats	Permanent	N/A
Structure plans for City buildings and bridges	EVT (Life of the structure)	N
Annual reports	Permanent	N/A
Records of the Plan		

Commission (includes minutes of meetings of the Commission and supporting documents submitted to the Commission)	Permanent	N/A
Records of the Zoning Board of Appeals (includes minutes of the meetings of the board and supporting documents submitted to the board)	Permanent	N/A
House number and address change file	Permanent	N/A
Street vacations and dedications, copies	EVT (Retain for active reference life)	W
Permits (includes permits for the excavation of streets by private utility companies)	EVT + 3 years	W
Petitions for street and sewer systems	EVT + 2 years	W
Special assessment calculations	EVT + 2 years	W
TV sewer inspection Records	EVT (Until superseded)	W
State highway aide program records	FIS + 7 years	W

(g) **Fidelity Bond Records.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Authority</b> <b>Period of Retention</b>	<b>SHSW Notice</b>
Oath of office	EVT + 5 years (after the term of service)	

covered by the oath  
 has ended W

(h) **Insurance Records and Policies.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Policy FIS +	7 years		W
Policy bids, unsuccessful	EVT + 1 year		W
Claims	EVT + 7 years		W

(i) **Journals, Registers and Ledger.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Receipts journal	FIS + 15 years		W
Voucher/order register	FIS + 15 years		W
General journal	FIS + 15 years		W
Journal voucher	FIS + 15 years		W
Appropriation journal	FIS + 15 years		W
Appropriation journal voucher	FIS + 15 years		W
General ledger	FIS + 15 years		W
Trial balance	EVT (Until audited)		W

(j) **Legal Opinions.** Legal opinions rendered shall not be destroyed and shall be retained permanently.

(k) **Licenses and Permits.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
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Liquor and beer related license applications	EVT + 4 years	W
Other license applications	EVT + 3 years	W
Receipts	CR + 4 years	W
License stubs: All liquor and beer related	CR + 4 years	W
Other	CR + 3 years	W
Dog licenses monthly reports to County Clerk	CR + 3 years	W

- (1) **Municipal Court Records.** The legal custodian, as defined in Sec. 19.33, Wis. Stats., of the following records concerning the City of Hillsboro Municipal Court, (if one is created) or his or her designee(s), may destroy the following public records may be destroyed after the expiration of the designated retention period:

Records	Authority Period of Retention	SHSW Notice
Audio tape	EVT (Until expiration recordings of trials of statute of or juvenile matters limitations to appeal to circuit court)	W
Municipal Court case	EVT + 6 years (after files entry of final judgment)	W
Municipal Court case files, City Attorney's copies	EVT + 6 months (after entry of final judgment)	W
Municipal Court minutes record	EVT + 5 years (after entry of final judgment)	W
Municipal Court record	EVT + 5 years (after	

entry of final judgment) W

Municipal Court judgment docket a record of all money judgment EVT + 20 years (after final docket entry) W

(m) **Payroll Records.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Authority Period of Retention</b>	<b>SHSW Notice</b>
Payroll support record	FIS + 2 years	W
Employee's withholding allowance certificate	EVT + 5 years (after being superseded)	W
Employee's WI withholding exemption certificate	EVT + 5 years (after being superseded)	W
Employee enrollment and waiver cards	EVT + 2 years (after being superseded or terminated)	W
Employee earning records	FIS + 5 years	W
Payroll check register	FIS + 5 years	W
Payroll distribution record	FIS + 5 years	W
Payroll voucher	FIS + 5 years	W
Cancelled payroll checks	FIS + 5 years	W
Wage and Tax Statement	FIS + 5 years	W
Report of WI Income Tax	FIS + 5 years	W
Employer's Annual		

Reconciliation of WI Income Tax withheld from wages	FIS + 5 years	W
Federal deposit tax stub	FIS + 5 years	W
Quarterly report of federal income tax withheld	FIS + 5 years	W
Annual report of federal income tax withheld	FIS + 5 years	W
State's quarterly report of wages paid	FIS + 5 years	W
Monthly memorandum report	FIS + 5 years	W
Quarterly report, payroll summary	FIS + 5 years	W
Premium due notices	FIS + 5 years	W

(n) **Public Safety Records.** The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority Period of Retention	SHSW Notice
Traffic citations (and accompanying documentation) sent through City Municipal Court (if created)	EVT + 1 year (after closed)	W
Ordinance Citations	EVT + 2 years (after closed)	W
All accounting records	CR + 7 years	W

Electronic recordings of court proceedings which were appealed	EVT + 7 years	W
Court statistical reports	CR + 7 years	N
Arrest calendars	CR + 7 years	W
Warrant and commitment Listings	CR + 7 years	W
Municipal Court correspondence	CR + 7 years	W
Electronic recordings of court proceedings which were not appealed	EVT + 6 months	W
Personnel records	EVT + 8 years	W
Property inventory records	EVT + 8 years	W
Citizen complaints against police officers	EVT + 8 years	W
Investigation and citation records:		
arrest records	EVT + 8 years	W
incident records	EVT + 10 years	W
fingerprint cards	EVT + 8 years	W
evidence cards	EVT + 10 years	W
work schedules	CR + 7 years	W
accident reports	EVT + 4 years	W
investigation reports	EVT + 10 years (from date of closing investigation)	W
Audio and video tape recordings:		
Police dispatch audio tapes	CR + 120 days	W



Police video tapes	CR + 120 days	W
Information teletype messages	CR + 30 days	W
Medical records, re: occupational	EVT + 30 years	W
Training records for exposure control	CR + 3 years	W

(o) **Public Works Projects and Contracts.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Authority Period of Retention</b>	<b>SHSW Notice</b>
Notice to contractors	EVT + 7 years (after completion of project)	W
	EVT + 2 years (for unsuccessful bidders)	W
Certified check	EVT (Retain until contract has been signed and return to bidder)	W
Bid bond	EVT + 7 years (after completion of project)	W
	EVT + 2 years (for unsuccessful bidders)	W
Bidder's proof of responsibility	EVT + 7 years (after completion of project)	W
	EVT + 2 years (for unsuccessful bidders)	W
Bids	EVT + 7 years (after completion of project)	W
	EVT + 2 years (for	

	unsuccessful bidders)	W
Affidavit of organization and authority	EVT + 7 years (after completion of project)	W
	EVT + 2 years (for unsuccessful bidders)	W
Bid tabulations	EVT + 2 years	W
Performance bond	EVT + 7 years (after completion of project)	W
Contract	EVT + 7 years (after completion of project)	W
Master project files	EVT + 20 years (after life of structure)	N
Blueprints	EVT (Until superseded by the as-built tracings)	W
As-built tracings	EVT (Life of the project)	N

(p) **Purchasing Records.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Purchase requisitions	EVT + 1 year (after PO issued)		W
Purchase orders	FIS + 7 years		W
Receiving report	FIS + 7 years		W
Bids, successful	EVT + 7 years (after contract has expired)		W
Bids, unsuccessful	EVT + 1 year (after after PO issued)		W
Inventory of property	EVT (Retain until		

superseded W

(q) **Real Property Records.** The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority Period of Retention	SHSW Notice
Deeds	Permanent	N/A
Opinions of title	Permanent	N/A
Abstracts and certificates of title	Permanent	N/A
Title insurance policies	Permanent	N/A
Plats	Permanent	N/A
Easements	Permanent	N/A
Leases	EVT + 7 years (after termination of lease)	W
Vacation or alteration of plat	Permanent	N/A

(r) **Sewer, Electric and Water Municipal Utility Records.** The following public records may be destroyed after the expiration of the designated retention period:

Records	Authority Period of Retention	SHSW Notice
Water stubs	FIS + 2 years	W
Receipts of current billings	FIS + 2 years	W
Customer's ledgers of municipal utilities	FIS + 2 years	W
All other utility records	CR + 7 years	W

Water quality laboratory tests (deep well water analysis detail and summary reports; chemical and bacteriological analysis of municipal drinking water detail and summary reports; municipal drinking water fluoride analysis; and water quality control readings	EVT + 5 years (if information has been transferred to a permanent test site file location) EVT + 1 year	W
Maps showing the location and physical characteristics of the	EVT (Until map is utility plant superseded)	W
Engineering records in connection with construction projects	EVT (Until record is superseded or 6 years after plant is retired provided mortality data are retained)	W
Operating records:		
Station pumpage records	CR + 15 years or EVT + 3 years (after the source is abandoned)	W
Interruption records	CR + 6 years	W
Meter rest records	EVT (see PSC 185.46)	W
Meter history records	EVT (Life of meter)	W
Annual meter accuracy summary	CR + 10 years	W
Pressure records	CR + 6 years	W
Customer records:		
complaint records	CR + 3 years	W
customer deposit	EVT + 6 years (after	

	refund	W
meter reading sheets or cards	CR + 6 years	W
billing records	CR + 6 years	W
Filed rates and rules	Permanent	W
Analyses of any water samples taken from the	EVT + 10 years (pursuant water system to NR 809.12)	W

(s) **Special Assessment Records.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Authority Period of Retention</b>	<b>SHSW Notice</b>
Preliminary resolution	CR + 2 years after created	W
Report on special assessment project	CR + 2 years after created	W
Waiver of special assessment notice and hearing	EVT + 1 year (after final resolution is approved)	W
Final resolution	Permanent	N/A
Certified special assessment roll	EVT (Retain until all assessments are collected)	W
Statement of new special assessments	CR + 5 years	W
Special assessment payment register	EVT (Retain until all assessments are collected)	W

(t) **Street and Highway Records.** The following public records may be destroyed after the expiration of the designated retention period:

**Authority**

<b>Records</b>	<b>Period of Retention</b>	<b>SHSW Notice</b>
Street operations file	CR + 2 years after created	W
Street and sidewalk maintenance and repair	CR + 25 years	W
Tree planting, inspection, trimming and removal	CR + 25 years	W
Stock control records	CR + 2 years	W
Fuel usage reports	CR + 2 years	W
Heavy equipment and vehicle	EVT (Life of equipment and/or vehicle inventory ledger or until inventory ledger is superseded)	W
Vehicle maintenance histories	EVT (Life of vehicle)	W
Vehicle expense reports	EVT (Life of vehicle)	W
Vehicle usage reports	CR + 2 years	W
Payroll support records	CR + 2 years	W
Purchasing records	CR + 7 years	W
Complaint ledger	CR + 2 years	W
Monthly reports	CR + 3 years	W
Annual reports	Permanent	N/A

(u) **Tax Calculation Records.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Authority</b>	<b>SHSW Notice</b>
	<b>Period of Retention</b>	

Escrow account list	EVT (Retain until superseded)	W
Receipts	FIS + 7 years	W
Receipt stub book	FIS + 7 years	W
Tax collection blotters	EVT (Until audited)	W
Statement of taxes remaining unpaid	EVT (Retain with tax roll)	W
Tax settlement receipt	FIS + 5 years	W
Municipal Treasurer's settlement	FIS + 5 years	W
Personal property tax roll	FIS + 15 years	N

(v) **Treasurer's Records.** The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Authority Period of Retention</b>	<b>SHSW Notice</b>
Minute books	Permanent	N/A
Audio tapes	CR + 1 year; 90 days if made solely for the purpose of drafting the minutes	W
Ordinances	Permanent	N/A
Resolutions	Permanent	N/A
Ordinance book	Permanent	N/A
Affidavits of publication	CR + 3 years	W

### **Section 3.3.9 Preservation Through Microfilm.**

Any City officer or the director of any department or division of City government may, subject to the approval of the City Clerk, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in Sec. 16.61(7)(a) and (b), Wis. Stats., and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Sections 3.3.4 through 3.3.6 of this Chapter.



## Title 3 - Chapter 4

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# Disposal of Lost, Abandoned and Surplus Property

### Section 3.4.1 Disposal of Surplus City Property.

(a) **Definitions.**

(1) "Surplus City Property" is that property which is owned by the City of Hillsboro and which has no further usefulness to the City. An item of property shall be considered to have no further usefulness when:

- a. The item or its function has been totally replaced by other City property and no probable future function exists for it; or
- b. The City no longer performs the service for which the item was purchased and no other service can reasonably be provided by the item; or
- c. The item is no longer able to reliably or economically perform the work required of it.

(2) Surplus property as defined in this Chapter shall not include land or buildings but shall include fixtures and such salvage as may be taken from a building without structural damage when such fixtures and salvage are not part of a demolition contract. Surplus City property shall not include property which is obtained by the City as a result of abandonment or loss by the property's original owner. Surplus City property shall not include items of property which are traded in for newer items. Surplus City property shall not include library materials used by the public library for lending purposes.

(b) **Reporting.** Each department will file with the City Administrator, when requested, a report stating what property is currently held by each department and that property which is ready for disposal.

(c) **Disposition of Surplus City Property.**

(1) All property owned by the City of Hillsboro, which is no longer used, or is unclaimed property which has been surrendered to various City departments, as well as other property which has been confiscated by the Police Department, shall only be disposed of on a quarterly basis as follows:

- a. Donation to a nonprofit organization within the City or to a governmental agency;
- b. Public auction or sale;
- c. Sale by sealed bid;

- d. Negotiated sale; or
  - e. Traded in.
- (2) In the event of a public auction or sale by sealed bid, the item will be sold in "as-is" condition to the person submitting the highest bid provided, however, that a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the City Administrator. The department head responsible for the item shall determine the time in which the successful bidder must remove the item. In the event the item is not removed within that time, the item shall revert to the City and the amount of the bid shall be forfeited to the City. In the event no bids are received, the item shall be disposed of as directed by the City Administrator.
  - (3) The City Administrator shall, within ten (10) days of sale, auction or accepting bids, advertise such sale, auction, or bids in the official newspaper of the City of Hillsboro.
  - (4) Whenever the fair market value of an item is Five Hundred Dollars (\$500.00) or less and has been determined, pursuant to the previous Section, that it is surplus City property, the item shall be either disposed of as set forth above or destroyed.
- (d) **Determination of Fair Market Values.** Whenever this Chapter requires a determination of the fair market value of an item of property, that determination shall be made by the department head responsible for the property, whose decision shall be final.
  - (e) **Authority to Dispose of Property.**
    - (1) Except for library materials used by the public library for lending purposes, only the Common Council, upon the recommendation of the City Administrator, may dispose of City property which is not surplus City property.
    - (2) Whenever this Section provides for an auction or other disposition of any property, the Common Council, upon the recommendation of the City Administrator, may hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, however, that the fees of such auctioneer and all such costs, other than those for City labor and the use of City property, do not exceed the payment received by the City from the auction or sale of the property.

### **Section 3.4.2 Lost and Abandoned Property.**

- (a) **City Custody of Lost or Abandoned Property.**
  - (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Chief of Police by citizens shall be disposed of according to this Section.
  - (2) Lost and abandoned property will be examined by the Chief of Police for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Chief of Police to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the Chief of Police.

- (3) No City employee shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.
  - (4) The Chief of Police shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.
  - (5) No City employee shall receive any lost, stolen, abandoned or other unclaimed property from the Chief of Police, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain with the City Clerk.
- (b) **Disposal Procedures.**
- (1) ***Classes of Property.*** All property which has been abandoned, lost or remained unclaimed for a period of thirty (30) days after the taking of possession of the same by the City shall be disposed of as follows, except that if the property is usable for City operations, the property need not be sold at auction, but may become the property of the City.
    - a. **Vehicles:** Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 5, of this Code of Ordinances.
    - b. **Intoxicating Liquor and Fermented Malt Beverages:** Intoxicating liquor and fermented malt beverages shall be destroyed.
    - c. **Firearms, Ammunition and Explosives:** Firearms or ammunition shall be returned to their rightful owner, destroyed, or transferred to the State Crime Laboratory, the division of law enforcement services of the Department of Justice, the Federal Bureau of Investigation or the Alcohol, Tobacco and Firearms bureau of the U.S. Department of Treasury. Any explosive, flammable, or other material proving a danger to life or property may be disposed of immediately upon taking possession thereof. The Chief of Police and the Fire Chief, after consulting with the County Sheriffs Department, are hereby authorized to determine the disposal procedure, provided, however, that any such procedure will attempt to return to its rightful owner any such material which appears to have been stolen.
    - d. **Other Property:** Other property shall be disposed of according to the procedures in Section 3.4.1.
    - e. **Illegal Property:** Property which cannot be legally possessed shall be destroyed.
  - (2) ***Lost Property.*** Property which is found by persons and delivered to the Chief of Police for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this Section until thirty (30) days after mailing to the person finding the property a notice that he may claim ownership of said property. The Chief of Police shall determine what portion, if any, of the property or its value shall be given the finder. This provision shall not apply to any City employee finding property in the regular course of his employment.
  - (3) ***Payment to City Treasury.*** All sums received from the sale of property under this Section shall be paid to the City Treasury.

***State Law Reference:*** Sec. 66.0139, Wis. Stats.

# TITLE 4

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# Administrative Determinations Review

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## **Title 4 - Chapter 1**

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# **Review of Administrative Determinations**

### **Section 4.1.1 Review of Administrative Determinations.**

Any person aggrieved by an administrative determination of the Common Council or a board, commission, committee, agency, officer or employee of the City of Hillsboro or agent acting on its behalf may have such determination reviewed as provided in this Chapter. The remedies under this Chapter shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.

*State Law Reference:* Sec. 68.01, Wis. Stats.

### **Section 4.1.2 Determinations Reviewable.**

The following determinations are reviewable under this Chapter:

- (a) The grant or denial in whole or in part after application of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license.
- (b) The suspension, revocation or nonrenewal of an existing permit, license right, privilege or authority, except as provided in Section 4.1.3.
- (c) The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.
- (d) The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.
- (e) The suspension or removal of a City officer except as provided in Section 4.1.3.

*State Law Reference:* Sec. 68.02, Wis. Stats.

### **Section 4.1.3 Determinations Not Subject to Review.**

The following determinations are not reviewable under this Chapter:

- (a) A legislative enactment. A legislative enactment is an ordinance, resolution or adopted motion of the Common Council.

- (b) Any action subject to administrative or judicial review procedures under state statute or other provisions of this Code.
- (c) The denial of a tort or contract claim for money required to be filed with the City under Sec. 62.25, Wis. Stats.
- (d) The grant, denial, suspension or revocation of a fermented malt beverage or intoxicating liquor license under Chapter 125, Wis. Stats.
- (e) Judgments and orders of a court.
- (f) Determinations made during municipal labor negotiations.
- (g) Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements or the City's personnel rules and regulations.

*State Law Reference:* Sec. 68.03, Wis. Stats.

#### **Section 4.1.4 Municipal Authority Defined.**

"Municipal authority" includes the Common Council, commission, committee, agency, office, employee, or agent of the City making a determination under Section 4.1.1 and every person, committee, or agency of the City to make an independent review under Section 4.1.8(b).

*State Law Reference:* Sec. 68.05, Wis. Stats.

#### **Section 4.1.5 Persons Aggrieved.**

A person aggrieved includes any individual, partnership, corporation, association, public or private organization; officer, department, board, commission or agency of the City whose rights, duties or privileges are adversely affected by a determination of a municipal authority. No department, board, commission, agency, officer or employee of the City who is aggrieved may initiate review under this Chapter of a determination of any other department, board, commission, agency, officer or employee of the City but may respond or intervene in a review proceeding under this Chapter initiated by another.

*State Law Reference:* Secs. 68.01 and 68.06, Wis. Stats.

#### **Section 4.1.6 Reducing Determination to Writing.**

If a determination subject to this Chapter is made orally or, if in writing, does not state the reasons therefore, the municipal authority making such determination shall, upon written request of any person aggrieved by such determination made within ten (10) days of notice of such determination, reduce the determination and the reasons therefore to writing and mail or

deliver such determination and reasons to the person making the request. The determination shall be dated and shall advise such person of his/her right to have such determination reviewed, that such review may be obtained within thirty (30) days, and the office or person to whom a request for review shall be addressed.

*State Law Reference:* Sec. 68.07, Wis. Stats.

### **Section 4.1.7 Request for Review of Determination.**

Any person aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within thirty (30) days of notice to such person of such determination. The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. A request for review shall be made to the officer, employee, agent, agency, committee, board, commission or body who made the determination, but failure to make such request to the proper party shall not preclude the person aggrieved from review unless such failure has caused prejudice to the municipal authority.

*State Law Reference:* Sec. 68.08, Wis. Stats.

### **Section 4.1.8 Review of Determination.**

- (a) **Initial Determination.** If a request for review is made under Section 4.1.7, the determination to be reviewed shall be termed an initial determination.
- (b) **Who Shall Make Review.** A review under this Section may be made by the officer, employee, agent, agency, committee, board, commission or body who made the initial determination. However, an independent review of such determination by another person, committee or agency of the City, appointed by the Mayor without confirmation, shall be provided if practicable.
- (c) **When to Make Review.** The municipal authority shall review the initial determination within fifteen (15) days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.
- (d) **Right to Present Evidence and Argument.** The person aggrieved may file with his request for review, or within the time agreed with the municipal authority, written evidence and argument in support of his/her position with respect to the initial determination.
- (e) **Decision on Review.** The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority's decision on review which shall state the reasons for such decision. The decision shall advise the person aggrieved of his/her right to appeal the decision, that

appeal may be taken within thirty (30) days, and the office or person with whom notice of appeal shall be filed.

*State Law Reference:* Sec. 68.09, Wis. Stats.

## **Section 4.1.9 Administrative Appeal.**

- (a) **From Initial Determination or Decision on Review.**
  - (1) If the person aggrieved had a hearing substantially in compliance with Section 4.1.10 when the initial determination was made, he/she may elect to follow Sections 4.1.6 through 4.1.8, but is not entitled to a further hearing under Section 4.1.10 unless granted by the municipal authority. He/she may, however, seek judicial review under Section 4.1.12.
  - (2) If the person aggrieved did not have a hearing substantially in compliance with Section 4.1.10 when the initial determination was made, he/she shall follow Sections 4.1.6 through 4.1.8 and may appeal under this Section from the decision made under Section 4.1.8.
- (b) **Time Within Which Appeal May be Taken Under This Section.** Appeal from a decision on review under Section 4.1.8 may be taken within thirty (30) days of notice of such decision.
- (c) **How Appeal May Be Taken.** An appeal under this Section may be taken by filing with or mailing to the office or person designated in the municipal authority's decision on review written notice of appeal.

*State Law Reference:* Sec. 68.10, Wis. Stats.

## **Section 4.1.10 Hearing on Administrative Appeal.**

- (a) **Time of Hearing.** The City shall provide the appellant a hearing on an appeal under Section 4.1.9 within fifteen (15) days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least ten (10) days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the City Attorney and City Clerk who shall forthwith advise the Mayor of such appeal.
- (b) **Conduct of Hearing.** At the hearing the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Mayor shall appoint an impartial decision maker who may be an officer, committee, board or commission of the City or the Common Council who did not participate in making or reviewing the initial determination, who shall make the



decision on administrative appeal. The decision maker may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Mayor to conduct the hearing and report to the decision maker.

- (c) **Record of Hearing.** The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the City.
- (d) **Hearing on Initial Determination.** Where substantial existing rights are affected by an initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this Section before making such determination.

*State Law Reference:* Sec. 68.11, Wis. Stats.

## **Section 4.1.11 Final Determination.**

- (a) Within twenty (20) days of completion of the hearing conducted under Section 4.1.10 and the filing of briefs, if any, the decision maker shall mail or deliver to the appellant its written determination stating the reasons therefor. Such determination shall be a final determination.
- (b) A determination following a hearing substantially meeting the requirements of Section 4.1.10 or a decision on review under Section 4.1.8 following such hearing shall be a final determination, judicial review of which may be obtained under Section 4.1.12.

*State Law Reference:* Sec. 68.12, Wis. Stats.

## **Section 4.1.12 Judicial Review.**

- (a) Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within thirty (30) days of receipt of the final determination.
- (b) The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at his expense. If the person seeking review established impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the City and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

*State Law Reference:* Sec. 68.13, Wis. Stats.

### **Section 4.1.13      Legislative Review.**

- (a) Seeking review pursuant to this Chapter does not preclude a person aggrieved from seeking relief from the Common Council or any of its boards, commissions, committees or agencies which may have jurisdiction.
- (b) If in the course of legislative review under this Section a determination is modified, such modification and any evidence adduced before the Common Council, board, commission, committee or agency shall be made part of the record on review under Section 4.1.12.
- (c) The Common Council, board, commission, committee or agency conducting a legislative review under this Section need not conduct the type of hearing required under Section 4.1.10.

***State Law Reference:*** Sec. 68.14, Wis. Stats.

# TITLE 5

## Public Safety

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# Law Enforcement

### **Section 5.1.1 Organization of Police Department.**

The Hillsboro Police Department shall consist of a Chief of Police and such other officers and assistants as from time to time may be employed by the Common Council, pursuant to the provisions of this Code of Ordinances.

### **Section 5.1.2 Police Records.**

There shall be kept by the Department a suitable record in which shall be entered the name of every person arrested in the City, the name of the person making the arrest, the date and cause of the arrest, the Court from which the warrant was issued, the disposition made of the case, the amount of fine and costs paid and to whom paid, bond posted, and all complaints in full.

### **Section 5.1.3 General Powers of Police Officers.**

Every member of the Police Department shall:

- (a) Familiarize himself with the ordinances of the City and the Statutes and attend to the enforcement of such ordinances by all lawful means.
- (b) Help prevent crimes, misdemeanors and violations of City ordinances and protect the health, safety, public peace and order of the City and its inhabitants.
- (c) Report all street obstructions, unlighted street lamps, unlawful street signs or signals, and defective or dangerous streets to the appropriate person or organization responsible for their repair or service.
- (d) Maintain order at the scene of a fire or any other fire response within the City.
- (e) See that the necessary permits and licenses issued by the State or City are in the possession of or properly displayed by any person engaged in an activity or business within the City for which such permit or license is required and that the terms of such permits or licenses are complied with.
- (f) Perform such other lawful duties as ordered by the Chief of Police or his/her authorized representative.

## Section 5.1.4 Responsibilities of Chief of Police.

- (a) **Duties.** In addition to the duties imposed upon him/her elsewhere in this Code of Ordinances, the Chief of Police shall:
- (1) Have command of the Police Department on administrative matters, subject to the general direction of the Mayor and/or Administrator, pursuant to the Wisconsin Statutes.
  - (2) Cause to be maintained accurate records of complaints, crimes, traffic accidents, ordinance violations, arrests, summons, incidents, and calls for police service and shall provide a system of periodic summary and analysis to ensure the most efficient and effective deployment and use of the Department's resources. He/she shall submit or cause to be submitted to the various agencies such reports and summaries as are required by State Statutes or ordinances and shall participate in voluntary programs designed to improve law enforcement and public safety.
  - (3) Submit monthly reports and/or information and comply with such policies as may be prescribed by the Common Council.
  - (4) Have control of the assignment and hours of duty of the Department members.
  - (5) Plan, organize, staff, direct, and control all of the human and material resources of the Department for the most effective and efficient discharge of its duty to protect persons and property, preserve the peace, protect the rights of citizens and enforce the Wisconsin Statutes and the ordinances of the City as are within its jurisdiction. The Chief of Police shall supervise the preparation and presentation of annual reports and budgets for the Police Department. The Chief of Police shall be required to certify to the correctness of all bills incurred by the Department.
  - (6) Strive to maintain suitable, productive relationships with other City departments and with other governmental agencies and private organizations concerned with law enforcement, crime prevention, administration of justice and public safety. The Chief of Police shall cooperate and exchange information with other City departments in matters relating to their various functions.
  - (7) Plan and execute programs designed to prevent and repress crime, apprehend and prosecute offenders, recover property, and regulate non-criminal conduct, giving highest priority in the allocation of resources to crime and other offenses most hazardous to life and property.
- (b) **Custody of Department Equipment.** The Chief of Police shall be the custodian of all City property, equipment and supplies under the control of, or used by, the Police Department and shall be responsible for the care, maintenance, safeguarding and accurate records of such property, equipment, and supplies.
- (c) **Custody of Department Property.** The Chief of Police shall be the custodian of all property and be responsible for the safekeeping, lawful disposition and accurate record of the same. The Chief of Police shall see that all property is returned to its lawful owner or otherwise disposed of according to the applicable statutes.

## **Section 5.1.5 Civilians to Assist.**

All persons in the City, when called upon by any police officer or peace officer, shall promptly aid and assist him/her in the execution of his/her duties and whoever shall neglect or refuse to give such aid or assistance shall be subject to the general penalty as provided in Title 1 of this Code of Ordinances.

# Title 5 - Chapter 2

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## Fire Prevention

### Section 5.2.1 Fire Association Organization; Goals of the Department.

- (a) **Fire Protection Contract.**
  - (1) The Common Council authorizes the Mayor and Clerk to execute such contracts with the Hillsboro Area Association to procure fire protection service for the City. All such contracts shall be presented to and approved by a majority of the Common Council before execution.
  - (2) The City shall have representation on the Hillsboro Area Fire Association as appointed by the Mayor and confirmed by the Common Council. All representative(s) shall serve for a one (1) year term.
  - (3) The business and affairs of the Hillsboro Area Fire Association shall be managed under the direction of its Board of Directors. In addition, the Fire Department shall have their own governing bylaws.
- (b) **Appropriations.** The Common Council shall appropriate funds to provide for personnel, operation, and for such apparatus and equipment for the use of the Fire Department, as deemed expedient and necessary to maintain efficiency and properly protect life and property from fire.

### Section 5.2.2 Powers and Duties of Chief.

- (a) **General Supervision.** The Chief shall have the general supervision of the Department, which supervision shall be subject to and not conflict with this Chapter and the bylaws of the Department. He/she shall be responsible for the personnel and general efficiency of the Department.
- (b) **Department Budget.** Not later than October 1<sup>st</sup> of each year, the Chief shall file with the City Clerk a detailed estimate of the appropriations needed for the conduct of the Department during the ensuing fiscal year.
- (c) **Enforcement of Fire Prevention Ordinances.** The Fire Chief shall enforce all fire prevention ordinances of the City and State laws and regulations pertaining to fire prevention, and shall keep citizens informed on fire prevention methods and on the activities of the Department.

- (d) **Fire Record Book.** He/she shall keep a fire record book of every fire to which the Department was called and shall enter in such book the locality of fire, time alarm was received, cause of fire, where fire started, cause of delay (if any) in responding, method of extinguishment and equipment used, estimated fire loss, time fire was extinguished, names of men responding and general remarks.

### **Section 5.2.3 Impeding Fire Equipment Prohibited.**

No person shall impede the progress of a fire engine, fire truck or other fire apparatus of the Hillsboro Fire Department along the streets or alleys of such City at the time of a fire or when the Fire Department of the City is using such streets or alleys in response to a fire alarm or for practice.

### **Section 5.2.4 Police Power of the Department; Investigation of Fires.**

(a) **Police Authority at Fires.**

- (1) The Fire Chief and assistants or officers in command at any fire are hereby vested with full and complete police authority at fires. Any officer of the Department may cause the arrest of any person failing to give the right-of-way to the Fire Department in responding to a fire.
- (2) The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons, excepting firefighters and law enforcement officers and those admitted by order of any officer of the Department, shall be permitted to come.
- (3) The Chief shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire he/she shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Department during the progress of a fire.

(b) **Fire Inspection Duties.**

- (1) The Fire Chief shall be the Fire Inspector of the City of Hillsboro and shall have the power to appoint one or more deputy Fire Inspectors and shall perform all duties required of the Fire Inspectors by the laws of the State and rules of the Wisconsin Department of Commerce (formerly the Department of Industry, Labor and Human Relations), particularly Sec. 101.14, Wis. Stats.
- (2) While acting as Fire Inspector pursuant to Sec. 101.14(2), Wis. Stats., the Fire Chief, or any officer of the Fire Department designated by the Fire Chief, shall have the right and authority to enter any building or upon any premises in the City of Hillsboro at all reasonable hours for the purpose of making inspections or



investigations which, under the provisions of this Code of Ordinances, he/she may deem necessary. Should the Fire Inspector find that any provisions of this Code relating to fire hazards and prevention of fires are being violated, or that a fire hazard exists which should be eliminated, it shall be his/her duty to give such directions for the abatement of such conditions as he/she shall deem necessary.

- (3) The Chief of the Fire Department is required, by himself/herself or by officers or members of the Fire Department designated by him/her as fire inspectors, to inspect all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires. Such inspections shall be made at least once in six (6) months in all of the territory served by the Fire Department and oftener as the Chief of the Fire Department orders. Each six (6) month period shall begin on January 1 and July 1 of each year. Repairs or alterations necessary to remove the hazardous condition shall be made within a reasonable time at the expense of the owner. The Inspector shall also investigate the storage and handling of explosives and inflammable liquids within the City.
- (4) Written reports of inspections shall be made and kept on file in the office of the Chief of the Fire Department in the manner and form required by the Wisconsin Department of Commerce (formerly the Department of Industry, Labor and Human Relations). A copy of such reports shall be filed with the Fire Chief.

*State Law Reference:* Sec. 101.14, Wis. Stats.

### **Section 5.2.5 Damaging Fire Hose Prohibited; Parking by Hydrants; Blocking Fire Lanes.**

- (a) **Driving Over Fire Hose.** No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the City, and no vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street, private driveway or other place, to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.
- (b) **Parking Vehicles Near Hydrants.** It shall be unlawful for any person to park any vehicle or leave any object within ten (10) feet of any fire hydrant at any time.
- (c) **No Parking Near Fire.** It shall be unlawful for any person, in case of fire, to drive or park any vehicle within one block from the place of fire without the consent and authority of the Fire Chief or any police officer.

## **Section 5.2.6 Firefighters May Enter Adjacent Property.**

- (a) **Entering Adjacent Property.** It shall be lawful for any firefighter while acting under the direction of the Fire Chief or any other officer in command to enter upon the premises adjacent to or in the vicinity of a building or other property then on fire for the purpose of extinguishing such fire and in case any person shall hinder, resist or obstruct any firefighter in the discharge of his/her duty as is hereinbefore provided, the person so offending shall be deemed guilty of resisting firefighter in the discharge of their duty.
- (b) **Destruction of Property to Prevent the Spread of Fire.** During the progress of any fire, the Fire Chief or his/her assistant shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire; provided that it is inevitable that, unless such property is removed, other property is in danger of being destroyed by fire.

## **Section 5.2.7 Duty of Bystanders to Assist.**

Every person who shall be present at a fire shall be subject to the orders of the Fire Chief or officer in command and may be required to render assistance in fighting the fire or in removing or guarding property. Such officer shall have the power to cause the arrest of any person or persons refusing to obey said orders.

## **Section 5.2.8 Vehicles to Yield Right-of-Way.**

Whenever there shall be a fire or fire alarm or the Fire Department shall be out for practice, every person driving or riding in a motorized or other vehicle shall move and remain to the side of the street until the fire engine and fire truck and other fire apparatus shall have passed.

## **Section 5.2.9 Interference with Use of Hydrants Prohibited.**

No person shall occupy any portion of such streets or alleys with a motorized or other vehicle between such fire engine or fire truck or other fire apparatus or any hydrant to which a fire hose may be, or may be about to be, attached.

## **Section 5.2.10 Outdoor and Refuse Burning.**

- (a) **Purpose.** This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of

the City of Hillsboro due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

- (b) **Applicability.** This ordinance applies to all outdoor burning and refuse burning within the City of Hillsboro.
  - (1) This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
  - (2) This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined in Section D of this ordinance.
  - (3) This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.
- (c) **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- (d) **Definitions.**
  - (1) **Campfire.** A small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.
  - (2) **Clean Wood.** Natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.
  - (3) **Confidential papers.** Printed material containing personal identification or financial information that the owner wishes to destroy.
  - (4) **Designated Official.** The Chief of the Hillsboro Area Fire Department unless the City Council appoints a person at their annual meeting that shall be authorized to act on their behalf.
  - (5) **Outdoor Burning.** Open burning or burning in an outdoor wood-fired furnace.
  - (6) **Open Burning.** Kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.
  - (7) **Outdoor Wood-fired Furnace.** A wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans.
  - (8) **Refuse.** Any waste material except clean wood.
- (e) **General prohibition on outdoor burning and refuse burning.** Open burning, outdoor burning and refuse burning are prohibited in the City of Hillsboro unless the burning is specifically permitted by this ordinance.
- (f) **Materials that may not be burned.**
  - (1) Unless a specific written approval has been obtained from the Department of Natural Resources, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device. Should said written approval be obtained, it shall also be the applicants responsibility to notify the Hillsboro Police Department of said approval three (3) days before burning occurs.

- (2) Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses or feces, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
  - (3) Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 679, Wis. Adm. Code.
  - (4) Asphalt and products containing asphalt.
  - (5) Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
  - (6) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
  - (7) Rubber including tires and synthetic rubber-like products.
  - (8) Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance except as provided in Section 11 of this ordinance.
- (g) **Burning leaves, brush, clean wood and other vegetative debris.** Open burning of leaves, weeds, brush, stumps, clean wood other vegetative debris is allowed only in accordance with the following
- (1) Must be conducted at a location of at least 25 feet from the nearest building which is not on the same property.
  - (2) All allowed open burning shall be conducted in a safe nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.
  - (3) Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Fire Chief or the Wisconsin Department of Natural Resources has issued a burning ban applicable to the area.
  - (4) Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a fire ring, or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief and the City of Hillsboro Police Chief.
  - (5) Burning for clearing or for the maintenance and clearing of rights-of-way is allowed if approved by the City's Designated Official and if in accordance with other provisions of this ordinance.
  - (6) In emergency situations such as natural disasters burning that would otherwise be prohibited is allowed if specifically approved by the Department of Natural Resources.
  - (7) Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The

person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

- (8) No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.
  - (9) Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 25 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.
  - (10) When weather conditions warrant, the Fire Chief or the Department of Natural Resources may declare a burning moratorium on all open burning.
- (h) **Burn barrels.** No person shall use or maintain a burn barrel in the City of Hillsboro.
- (i) **Outdoor wood-fired furnaces.** An outdoor wood-fired furnace may be installed and used in the City of Hillsboro only in accordance with the following provisions:
- (1) The outdoor wood-fired furnace shall not used to burn any of the prohibited materials listed in Section 5.2.10(f).
  - (2) The outdoor wood-fired furnace shall be located at least fifty (50) feet from all existing lot lines.
  - (3) The outdoor wood-fired furnace shall have a chimney that extends at least 15 feet above the ground surface.
  - (4) The owner or occupant of the property shall obtain a building permit, per section 15.1.2 from the City's Building Inspector for each outdoor wood-fired furnace before installing the outdoor wood-fired furnace.
  - (5) The following existing wood stoves shall be permitted until they are no longer in operation, all replacement outdoor wood-fired furnaces must comply with this Ordinance:
    - a. Community Antenna 1010 Lake Street
    - b. Shaw, Jim 1209 High Avenue
    - c. Hillsboro Cement Products 211 E. Madison Street
    - d. Miller, Tom 728 Field Avenue
    - e. Chalupecky, Roger 841 Lake Street
    - f. Rynes, Steve 923 Pine Avenue
- (j) **Fire department practice burns.** Except as provided in this section for fire department practice burns, an existing unwanted building in the City of Hillsboro may not be burned. A building, which is no longer standing, may not be used for a practice burn.
- (1) An existing building may be burned only by the Hillsboro Area Fire Department and only if the Fire Chief determines that the burning is necessary for practice and instruction of fire fighters or fire fighting equipment.
  - (2) Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.
  - (3) A demolition notification shall be submitted to the Department of Natural Resources and all asbestos removed prior to the practice burn.
  - (4) All ash shall be disposed of in an approved landfill or at an alternative location approved by the Department of Natural Resources.

- (5) At least 48 hours before a planned practice burn the Fire Chief or designee shall notify residents within 1000 feet of the site of the proposed burn.
- (k) Exemption for burning certain papers.
  - (1) Notwithstanding 5.2.10(f)(8) of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance
  - (2) Small quantities of confidential papers from a residence may be burned if necessary to prevent the theft of financial records, identification or other confidential information.
  - (3) Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.
  - (4) A fire set for burning of a small quantity of confidential papers shall be subject to and comply with 5.2.10(g).
- (l) **Liability.** A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.
- (m) **Right of entry and inspection.** The Fire Chief or any authorized officer, agent, employee or representative of the City of Hillsboro who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. Note: If the owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with Sec. 66.0119, Wis. Stats.
- (n) **Enforcement and penalties.**
  - (1) The Fire Chief, Police Chief or Officer, and City Administrator are authorized to enforce the provisions of this ordinance.
  - (2) The penalty for violation of any portion of this ordinance shall be a forfeiture to be determined by the Hillsboro City Council set via Resolution and amended from time to time.

## **Section 5.2.11 Banning and/or Regulating the Use of Fire, Burning Materials and Fireworks During the Existence of Extreme Fire Danger.**

- (a) **Declarations of Emergency.** When there occurs a lack of precipitation, there may exist an extreme danger of fire within the City of Hillsboro. This extreme danger of fire affects the health, safety, and general welfare of the residents of the City of Hillsboro and constitutes a state of emergency. It is hereby found that the regulation of fires, burning materials, and fireworks is necessary and expedient for the health, safety, welfare and good order of the City during said emergency.
- (b) **Regulation of Fires, Burning Materials and Fireworks.** Pursuant to Sec. 166.23, Wis. Stats., and when a burning state of emergency is declared, it may be ordered that a person may not:
  - (1) Set, build, or maintain any open fire, except:

- a. Charcoal grills using charcoal briquets, gas grills, or camp stoves on private property; or
  - b. Charcoal grills using charcoal briquets, gas grills, or camp stoves in City parks placed at least twenty (20) feet away from any combustible vegetation.
- (2) Throw, discard or drop matches, cigarettes, cigars, ashes, charcoal briquets or other burning materials while outdoors except into a noncombustible container that does not contain combustible materials.
  - (3) Light or ignite a flare, except upon a roadway in an emergency.
  - (4) Light, ignite, or use anything manufactured, processed, or packaged solely for the purpose of exploding, emitting sparks or combustion for amusement purposes, including fireworks, firecrackers, bottle rockets, caps, toy snakes, sparklers, smoke bombs, or cylindrical or cone fountains that emit sparks and smoke, except in displays authorized by the City where adequate fire prevention measures have been taken.
- (c) **Period of Emergency.**
- (1) The periods of emergency for which this Section shall be in effect shall be during such periods that Vernon County, Wisconsin, is under Wisconsin Department of Natural Resources emergency fire regulations banning outdoor smoking and campfires, or when necessary as determined by the Mayor, upon the recommendation of the Fire Chief.
  - (2) Pursuant to Sec. 166.23, Wis. Stats., burning emergencies shall become effective upon the time and date of the Mayor declaring a state of emergency and shall remain in effect until the period of emergency ceases to exist or until the ratification, alteration, modification, or repeal of the burning state of emergency by the Common Council.

## **Section 5.2.12            Emergency Service Protection Charges**

- (a) **Purpose.** The purpose of this Ordinance is to establish a per run fee to recover the costs of emergency service of the Hillsboro Volunteer Fire Association made within the City of Hillsboro pursuant to Sec. 62.11(5), Wis. Stats.
- (b) **Liability for Emergency Service Protection Costs**
  - (1) The City of Hillsboro hereby imposes a charge for each emergency service call made within the City of Hillsboro. Such fee shall not exceed the actual cost to the City of Hillsboro for the particular fire call. The charges to be imposed under this Ordinance shall, in each case, be imposed on all of the owners of the real estate to which the particular fire call is made, except in those limited circumstances provided for in paragraph number of this Ordinance.
  - (2) Emergency service call to Vehicles Located on City: In the event that an emergency service call is not made to real estate located within the City but instead is made to a vehicle located on a street, road or alley within the City of Hillsboro, then, in that case, such charges provided for under this Ordinance shall be imposed

on all owners of such vehicle that is the subject of the emergency service call. Such fee shall be paid in full no later than 60 days after the date of the particular emergency service call.

(c) **Billing and Payment Procedure**

- (1) In each case, the emergency service call charges provided for in this Ordinance shall be billed by the City Clerk and paid in full to the Clerk of the City of Hillsboro no later than 60 days after the date of the particular emergency service call. If not paid within that period, then such fee shall be deemed to be delinquent.
- (2) If full payment of an emergency service call fee is not made within the 60 day period, such delinquent fee shall become a lien on such real estate to which the emergency service call is made as of the date of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the real estate under Sec. 66.0703 Stats. All proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such delinquent emergency service call charge.
- (3) Other Remedies. The City shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution, collection and reasonable attorneys fees.

(d) **Penalties**

- (1) Any property owner in the City of Hillsboro who shall violate any provision of this Ordinance shall, upon conviction thereof, forfeit not less than One Hundred (\$100.00) nor more than Three Hundred Dollars (\$300.00), together with the cost of prosecution including reasonable attorneys fees and, in default of payment of such forfeiture and cost of prosecution including reasonable attorneys fees shall be added to the property tax, with interest, at the current interest rate charged for delinquent property taxes.
- (2) Non-resident, non-real estate owners of the City of Hillsboro who shall violate any provision of this Ordinance shall be issued a City of Hillsboro citation.

- (e) **Severability.** Each of the provisions of the ordinance is severable and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.



# Title 5 - Chapter 3

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## Safety Codes

### Section 5.3.1 Disclosure of Hazardous Materials and Infectious Agents; Reimbursement for Cleanup of Spills.

(a) **Application.**

- (1) All persons, firms or organizations using, researching or producing hazardous materials and/or infectious agents shall notify the Fire Department as prescribed by this Section.
- (2) The provisions of this Section shall apply to all persons, firms or organizations using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of this Section.

(b) **Definitions.**

- (1) **Infectious agent.** A bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans which is used, researched, produced or stored within or on premises.
- (2) **Hazardous materials.** Those materials that can cause death or disabling injury from brief exposure; those materials that could cause a lost-time injury from exposure; and those materials that could cause temporary disability or injury without permanent effects which are used, researched, produced or stored within or on premises except those household consumer products used at the point of consumption and not used for commercial or experimental purposes. This definition of hazardous materials shall include radioactive materials.

(c) **Information Required.**

- (1) Any person, firm or organization using, researching, producing and/or storing any hazardous materials shall provide in writing to the Fire Department the following information:
  - a. Address, location of where hazardous materials are used, researched, stored or produced;
  - b. The trade name of the hazardous material;
  - c. The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;

- d. The exact locations on the premises where materials are used, researched, stored and/or produced;
  - e. Amounts of hazardous materials on premises per exact location;
  - f. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the hazardous material;
  - g. The flashpoint and flammable limits of the hazardous substance;
  - h. Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;
  - i. The stability of the hazardous substance;
  - j. Recommended fire extinguishing media, special firefighting procedures and fire and explosion hazard information for the hazardous material;
  - k. Any effect of over-exposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;
  - l. Any condition or material which is incompatible with the hazardous material and must be avoided.
  - m. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials;
  - n. Procedures for handling or coming into contact with the hazardous materials.
- (2) Any person, firm or organization using, researching, producing and/or storing infectious agent and/or carrier of an infectious agent shall provide in writing to the Fire Department the following:
- a. The name and any commonly used synonym of the infectious agent;
  - b. Address/location where infectious agents are used, researched, stored and/or produced;
  - c. The exact locations where infectious agents are used, researched, stored and/or produced;
  - d. Amount of infectious agent on premises per exact locations;
  - e. Any methods of route of transmission of the infectious agents;
  - f. Any symptoms of effect of infection, emergency and first aid procedure and a telephone number to be called in an emergency;
  - g. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent;
  - h. Procedure for handling, clean-up and disposal of infectious agents leaked or spilled.
- (d) **Reimbursement for Cleanup of Spills.** Any person who possesses or controls a hazardous material or infectious agent which was discharged or caused the discharge of a hazardous material or infectious agent shall reimburse the City for actual and necessary expenses incurred by the City or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the circumstance.

### **Section 5.3.2 Recovery of Costs of Extinguishing and Cleaning Up Fires Involving Hazardous Materials.**

- (a) Every person, firm or corporation using, storing, handling or transporting flammable or combustible liquids, chemicals, gasses or other hazardous materials shall comply with the requirements of Chapter COMM 8, Wis. Adm. Code, as the same is now in force and may hereafter from time to time be amended.
- (b) Every person, firm or corporation using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials shall be liable to the City for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or clean up any such hazardous material which is involved in any accidental spill or in threat of any fire or accidental spill.

### **Section 5.3.3 Adoption of State Codes.**

- (a) The following orders, rules, and regulations of the Department of Industry, Labor and Human Relations, all of which are set forth in the Wisconsin Administrative Code as from time to time amended and/or renumbered, are incorporated herein by reference and adopted as part of this Fire Prevention Chapter:
  - (1) Wis. Adm. Code, Ch. COMM 7; Explosive Materials.
  - (2) Wis. Adm. Code, Ch. COMM 10; Flammable and Combustible Liquids.
  - (3) Wis. Adm. Code, Ch. COMM 11; Liquefied Petroleum Gases.
  - (4) Wis. Adm. Code, Ch. COMM 12; Natural Gas.
  - (5) Wis. Adm. Code, Ch. COMM 13; Compressed Natural Gases.
  - (6) Wis. Adm. Code, Ch. COMM 14; Fire Prevention.
  - (7) Wis. Adm. Code, Ch. COMM 43; Anhydrous Ammonia Code.
  - (8) Wis. Adm. Code, Ch. COMM 61; Administration and Enforcement.
  - (9) Wis. Adm. Code, Ch. COMM 62; Buildings and Structures.
  - (10) Wis. Adm. Code, Ch. COMM 76; Factories, Office and Mercantile Buildings.
  - (11) Wis. Adm. Code, Ch. COMM 77; Theatres and Assembly Halls.
  - (12) Wis. Adm. Code, Ch. COMM 78; Schools and Other Places of Instruction.
  - (13) Wis. Adm. Code, Ch. COMM 20-25; Uniform Dwelling.
  - (14) Wis. Adm. Code, Ch. COMM 64; Heating, Ventilating and Air Conditioning.
  - (15) Wis. Adm. Code, Ch. COMM 70; Historic Buildings.
  - (16) Wis. Adm. Code, Ch. COMM 16; Electrical.
  - (17) Wis. Adm. Code, Ch. COMM 75; Definitions and General Requirements.
  - (18) Wis. Adm. Code, Ch. COMM 79; Apartment Houses, Hotels and Places of Detention.

## Title 5 - Chapter 4

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# Regulation of Alarm Systems

### Section 5.4.1 Title.

This Chapter shall be known as the City of Hillsboro Alarm Systems Ordinance.

### Section 5.4.2 Declaration of Purpose.

The purpose of this Chapter is to provide minimum standards and regulations applicable to burglar, fire and holdup alarm systems, alarm business and alarm users. Both society in general and public safety in particular will be aided by providing a useful and usable system of private security which properly balances quick response by law enforcement with minimization of law enforcement time spent on alarms which are false or otherwise not the intended function of private security systems.

### Section 5.4.3 Definitions.

Within this Chapter, the following terms, phrases and words and their derivations have the means given herein:

- (a) **Alarm Business.** Any business in which the owners or employees engage in the activity of altering, installing, leasing, maintaining, repairing, replacing, selling, or servicing alarm systems.
- (b) **Alarm System.** An assembly of equipment and devices or single device such as a solid state unit which plugs directly into 110-volt AC line or otherwise receives electrical energy arranged to signal the presence of a hazard requiring urgent attention and to which the Police or Fire Department is expected to respond. In this Chapter, the term "alarm system" shall include the terms "automatic holdup alarm systems," "burglar alarm systems," "holdup alarm systems" and "manual holdup alarm systems" as those terms are hereinafter defined, and fire alarm systems which monitor temperature, humidity or any other condition directly related to the detection of fire. Excluded from this definition and from the coverage of this Chapter are alarm systems used to alert or signal persons within the premises in which the alarm system is located of an attempted, unauthorized intrusion or holdup attempt or fire.
- (c) **Annunciator.** The instrumentation of an alarm console at the receiving terminal of a signal line through which both visual and audible signals show when an alarm device at a

particular location has been activated or which, in the event of malfunction, may also indicate line trouble.

- (d) **Answering Service.** A telephone answering service providing among its services the service of receiving on a continuous basis through trained employees emergency signals from alarm systems, and thereafter immediately relaying the message by live voice to the dispatch center of the Police or Fire Department.
- (e) **Automatic Dialing Device.** An alarm system which automatically sends over regular telephone lines by direct connection or otherwise a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.
- (f) **Automatic Holdup Alarm System.** An alarm system in which the signal transmission is initiated by the action of the robber.
- (g) **Manual Holdup Alarm System.** An alarm system in which the signal transmission is initiated by the direct action of the person attached or by an observer thereof.
- (h) **Burglar Alarm System.** An alarm system which signals an entry or attempted entry into the area protected by the system.
- (i) **Direct Connect.** An alarm system which has the capability of transmitting system signals to the Police or Fire Department.
- (j) **False Alarm.** The activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or of his employees or agents or other undetermined cause. False alarm does not include alarms caused by tornadoes or other violent climatic conditions.
- (k) **Interconnect.** To connect an alarm system to a voice grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.
- (l) **Central Station.** An office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits.
- (m) **Primary Trunk Line.** A telephone line leading directly into the dispatch center of the Police or Fire Department that is for the purpose of handling emergency calls on a person-to-person basis and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory or numbers in sequence therewith.
- (n) **Subscriber.** A person who buys or leases or otherwise obtains an alarm system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm system.

## Section 5.4.4 Administrative Rules.

The Chief of Police shall promulgate such rules as may be necessary for the implementation of this Chapter. Such rules shall require the approval of the Common Council and shall be open to inspection by the public.

### **Section 5.4.5 Automatic Dialing Devices.**

No person shall interconnect any automatic dialing device to a Police or Fire Department primary trunk line. No person shall permit such devices, which were installed prior to the effective date of this Chapter, to remain interconnected from any property owned or controlled by that person. Such devices may be connected to a central station or an answering service. Relaying messages so received to the Police or Fire Department shall only be done person to person on the telephone line.

### **Section 5.4.6 Direct Connections to the Police Department.**

Direct connections to the Police or Fire Department are prohibited, but may be authorized pursuant to the direct connection policies of each Department, a copy of which is on file with the Chief of Police and Fire Chief.

### **Section 5.4.7 Testing.**

- (a) No alarm business or alarm system designed to transmit emergency messages to the Police Department shall be tested or demonstrated without prior notification and approval of the Police Department dispatcher. Alarm businesses or alarm system owners or lessors will be advised on proper test procedure.
- (b) No alarm system relayed through intermediate services to the Police Department will be tested to determine the Police Department's response without first notifying the appropriate authority. However, the Police Department may inspect or test on-site alarm systems authorized under this Chapter.
- (c) Alarm systems shall be in compliance with all pertinent response policies of the Police Department.

### **Section 5.4.8 Notification.**

When the service provided by an alarm business to its subscribers is disrupted for any reason by the alarm business or the alarm business becomes aware of such disruption, it shall promptly notify its subscribers by telephone that protection is no longer being provided. If, however, the alarm business has written instructions from its subscriber not to make such notification by telephone during certain hours, the alarm business may comply with such instructions.

### Section 5.4.9 Fee for Answering Alarms.

- (a) **Generally.** Each false alarm requires response of public safety personnel, involves unnecessary expense to the City, increases the risk of injury to persons or damage to property and dilutes the overall public safety protection to the City. Such false alarms constitute a public nuisance and must be abated.
- (b) **Intentional.** No person shall intentionally cause the activation of a burglar/fire alarm device knowing that no criminal activity, fire or other emergency exists.
- (c) **False Alarms; Administrative Charges.**
  - (1) Any person, business, corporation or other entity having permissible alarm system with alarm device(s) at one or more locations in accordance with this Chapter shall pay to the City a charge for false alarms responded to by the Police or Fire Department according to the schedule for each calendar year for each location connected, separate accounts to be kept for false alarms as to criminal activity and false alarms for fire or other emergencies.
    - a. The said schedule of fees shall be set by resolution of the Common Council and be amended from time to time.
  - (2) This Subsection is intended to impose a strict liability on the person, business, corporation or other entity responsible for alarm connection to either the police alarm panel or to alarm receiving firm to which the Police or Fire Department have responded and shall be applied regardless of the cause of the false alarm excepting those alarms excluded from the definition of "False Alarm." Failure to pay such administrative charge(s) in and of itself shall constitute a violation of this Section, and such charge(s) shall be collectible as a forfeiture upon prosecution and conviction thereof, together with an additional forfeiture(s) which may be imposed under the next Subsection (d) hereof for violation of this Section for allowing or maintaining condition(s) or act(s) violative of the intent of this Section of eliminating and minimizing the occurrence of false alarms, together with costs of prosecution.
- (d) **Waiver of Fee.** If a possessor of the alarm shows to the satisfaction of the Chief of Police that such false alarm was not the result of negligence or improper maintenance, or other good and sufficient cause beyond the reasonable control of the possessor of the alarm, such fee may be waived and the response shall not count as a false alarm in computing the fee established under Subsection (c).
- (e) **Other Violations.** Any person, corporation or other entity violating this Chapter in any manner, other than for collection of unpaid administrative charges treated in the preceding Subsection (a) of this Section, shall be subject to forfeiture as provided in Section 1.1.7 of this Code. When any premises located in the City is owned, leased or occupied by two (2) or more persons as joint tenants, tenants in common, joint lessees, or in any other manner, each person shall see that the provisions of this Chapter are complied with, and each person may be subjected to a penalty on violation of this Section.

## **Section 5.4.10      City Liability.**

The City of Hillsboro shall be under no duty or obligation to a subscriber or to any other person concerning any provision of this Chapter, including, but not limited to, any defects in an alarm system or any delays in transmission or response to any alarm; however, this in no way shall be construed that it is not the proper function of law enforcement to respond to alarms.



# TITLE 6

## Public Works

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# Title 6 - Chapter 1

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## Grades; Assessments

### Section 6.1.1 Establishment of Grades.

- (a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by resolution by the Common Council, upon the recommendation of the City Administrator, and the same recorded by the City Clerk in his/her office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.
- (b) **Sidewalk Grades.** Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Common Council, or its designee, shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.

### Section 6.1.2 Alteration of Grade Prohibited.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the City of Hillsboro by any means whatsoever unless authorized or instructed to do so by the Common Council, or City Administrator. All such alterations of grade shall be recorded in the office of the City Clerk.

### Section 6.1.3 Regulation of Underground Utilities.

- (a) **Elevation.** The grade or elevation of all underground construction in public terraces or other public property shall be a minimum of three (3) feet below the established grade of the street, alley, park, public property or easement. The three (3) feet shall be measured between the top of the established grade and the top of the underground construction.

- (b) **Approval of Location.** The location of any and all such underground construction must have the approval of the City Administrator .
- (c) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the City Administrator before construction can begin.
- (d) **Inspection.** On request of the City Administrator, the utility company must provide opportunity for City officials to check any construction before it may be covered.
- (e) **Conflict with Other Utilities.** If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction at the election of the City Administrator , and in accordance with its directions and specifications.
- (f) **Establishment of Grade.** At the request of the utility company, the City Administrator shall, at the City's expense, give the utility company an established grade on any streets, alleys, public parks or easements where it proposes to install underground utilities.
- (g) **Emergency.** In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction subject to obtaining the approval of such work by the City Administrator as soon thereafter as is reasonably possible.
- (h) **Restoration of Surface.** In the event of any such underground construction, the utility company shall leave the surface of the ground, or road, in the same condition as before said work was commenced, and in the event of its failure so to do, the City may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with the provisions of Sections 6.2.3 and 6.2.4.
- (i) **Non-Relief from Obligations.** Compliance with this Section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travelway, or any other improvements which may become necessary; nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this Section shall not relieve the utility company from the responsibility or obligation of removing, relocating or moving any of its mains, pipes or property due to the opening, widening or improving of streets, or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

### **Section 6.1.4 Official Map.**

- (a) **Purpose.** To provide for orderly, safe and economical expansion of the built-up area of the community by designating the location and extent of existing and proposed streets, highways and parks on an official map.
- (b) **Effect.** The official map is intended to be final and conclusive with respect to the location and extent of streets, highways and parks shown on the map. The Common Council may change or add to the map if it is determined to be in the public interest. Changes and additions shall be made in accordance with procedures in Sec. 62.23, Wis. Stats. The placing of proposed streets, highways or parks upon the official map shall not constitute or be deemed to constitute the opening or establishment of such streets, highways or parks, or the taking or acceptance of any land for such purposes.

- (c) **Subdivision Plats and Building Permits.** The Plan Commission shall require that all subdivision plats conform to the official map. No building permit shall be issued for any structure in the bed of any street or highway shown on the official map, and no permit for the erection of any structure shall be issued unless a street or highway giving access to the structure has been duly placed on such map, except as provided in Sec. 62.23, Wis. Stats. The Building Inspector shall require each applicant to submit a plot plan, certified by a registered surveyor, showing accurately the location of any proposed building with reference to adjacent streets, highways or parks shown on the official map.
- (d) **Filing.** The City Clerk shall file with the Register of Deeds of Vernon County a certificate showing that the City has established an Official Map and shall do likewise as to any changes or additions.

# Title 6 - Chapter 2

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## Streets and Sidewalks

### Section 6.2.1 Removal of Rubbish and Dirt from Sidewalks.

No owner or occupant shall allow the sidewalk abutting on his/her premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Common Council, or its designee, the City may cause the same to be done and report the cost thereof to the City Clerk who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.0703, Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

### Section 6.2.2 Construction and Repair of Sidewalks.

- (a) **General Construction and Repair Authority.** The Common Council may determine that sidewalks be constructed, and establish the width, determine the material and prescribe the method of construction of standard sidewalks pursuant to the standards of this Section. The Common Council shall bid and award contracts for all sidewalk construction and reconstruction projects.
- (b) **License and Permit.** No person, party, firm or corporation may construct, alter, repair, replace, or reconstruct any sidewalk or driveway approach within the City without first obtaining a license to do so from the City Clerk, and having an approved permit on file. There shall be a fee for such license the first year and an annual renewal fee thereafter. The Common Council will establish the license fee, in accordance with the City's overall fee schedule.
  - (1) An individual in his or her own person may construct, modify, repair, or reconstruct a sidewalk or driveway approach in the public right-of-way abutting their property without such license, but must complete the permit and furnish an owner's bond as provided in section (c).
  - (2) The property owner is responsible for obtaining a sidewalk permit prior to beginning work described in this section, unless the work is being completed at the order of, and by the City or its agents. The Common Council will establish the permit fee in accordance with the City's fee schedule.
- (c) **Bonds Required.**
  - (1) **Contractor's Bond.** Every person, party, firm or corporation engaged in the business of constructing, modifying, destroying, removing or repairing sidewalks or driveway approaches, before the issuance of a license, shall provide a surety bond to the City of

- Hillsboro in the sum of ten thousand (\$10,000.00) dollars. The bond shall guarantee that all work is performed in accordance with this and other applicable ordinances of the City of Hillsboro, and laws, rules and regulations of the State of Wisconsin, and which will indemnify the City for any damage to or obstruction of its public right-of-way, including its sanitary and storm sewers, and water mains.
- (2) **Owner's Bond.** Any person constructing, modifying, destroying, removing or repairing a sidewalk or driveway approach abutting their property shall furnish a surety bond similar to the contractor's bond listed above, except said bond shall only need be in the sum of two thousand (\$2,000.00) dollars. No bond is required when sidewalk work involves less than one hundred (100) square feet of area and when driveway approach involves less than fifty (50) square feet of area.
  - (3) **Insurance.** A condition of a sidewalk license shall be the furnishing of a Certificate of Insurance, containing a provision that the City Administrator must be notified twenty (20) days in advance of the effective date of any termination or cancellation thereof, which certificate shall indicate that there is, in full force and effect, a policy of public liability insurance and motor vehicle liability insurance for each motor vehicle used in conjunction with the licensed activity, issued by an insurance company licensed to do business in the State of Wisconsin, in the amount of at least three hundred thousand (\$300,000.00) dollars, protecting against claims involving death, personal injury or property damage.
- (d) **Cost of Sidewalks.**
- (1) **New Sidewalks.** Sidewalks required in new subdivisions and developments shall be paid for by the land divider pursuant to Title 14 of this Code of Ordinances. New sidewalks constructed in existing areas of the City shall be paid for by adjacent property owners.
  - (2) **Sidewalk Repair and Reconstruction.** It shall be the duty of the abutting property owner to construct, repair, and maintain sidewalks along or upon any street, alley, or highway in the City of Hillsboro as required by the Common Council and to pay the entire cost thereof. With the exception of minor repairs as indicated in this section, and declared emergencies, property owners will be given the opportunity to make the repair or reconstruction in his own person or contract for the repairs, provided all provisions of section 6.2.2 of this Code are in compliance.
  - (3) **Special Assessment.** In the event a property owner refuses or chooses not to complete the repair or reconstruction of sidewalk for which the homeowner has abutting property, the City will contract with the lowest responsible bidder for completion of the repairs or reconstruction and will pass along the charges to the responsible property owner in the form of a special assessment as permitted by Wisconsin State Statutes.
  - (4) **Assessment a Lien.** Said special assessment shall remain a lien on the premises until paid in full and shall be entered on the tax roll as a special tax as above provided and failure to pay when due shall result in the whole balance being immediately due and payable and collectible as a delinquent tax against the above described property and that all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such special assessment.

- (5) **Installment Payments.** When the repair or reconstruction is being paid by way of a special assessment, the payments may be made in three (3) annual installments on the property owner's tax bill, as a special tax, if the total exceeds \$300.00. At the property owner's request, other installment plans may be worked out with the City in accordance with Wisconsin State Statutes. The City Administrator may authorize additional annual installments if the total exceeds \$1,000.00.
- (e) **Standard Specifications for Sidewalk.**
- (1) **General.** Concrete sidewalk construction shall meet the specifications and provisions set forth in this Section and shall be constructed in locations and to line and grade as established by the City. All sidewalks constructed in the City shall conform to the line and grade established by the ordinances or resolutions of the City. Where no grade has been established as ascertained by the records, the City Engineer shall prepare and report a grade for the approval of the Common Council; and, when the same has been established, the City Engineer shall stake out the sidewalk as ordered by the Common Council. No sidewalk shall be laid under the provisions of this Section until a grade therefor has been established by the Common Council.
- (2) **Subgrade.** All earth, dirt and material shall be removed to a depth, not less than eight (8) inches, ten (10) inches across private driveways, below the grade line; and the space shall be filled with crushed stone, sand or gravel. The base shall be left four (4) inches thick after being tamped, with the stone or gravel to be not larger than one and one-half (1-1/2) inches in diameter and to be free from dirt, dust and foreign matter. Soft, porous and unsuitable subgrade material shall be removed and replaced with sand, gravel, or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. On embankments, the subgrade shall extend at least one (1) foot beyond each edge of the sidewalk.
- (3) **Concrete.** The minimum quantity of cement per cubic yard shall be six (6) sacks of ninety-four (94) pounds each. Concrete shall be mixed for at least one (1) minute. Gravel shall be of good quality and washed. Concrete shall test three thousand (3,000) pounds compression in twenty-eight (28) days.
- (4) **Forming.** Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. The use of slip form machines is permitted. Concrete shall be placed in the forms on a moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing. It shall then be struck off level with the top of the forms and finished with wooden flats. Forms shall be securely fastened, staked, braced and held firmly to required line and shall be sufficiently tight to prevent leakage of mortar, and all forms shall remain in place for twenty-four (24) hours after pour.
- (5) **Jointing, Floating and Finishing.** Soon after screening and while the concrete is still plastic, the surface shall be floated with wood, cork or metal floats or by a finishing machine. At all places where the sidewalk intersects another sidewalk or curb-line, a one-half (1/2) inch expansion joint shall be placed. Transverse expansion joints of



- one-half (1/2) inch thick and four (4) inches wide and five (5) feet long or premolded material shall be located every thirty (30) feet. Sidewalks must be marked off to make blocks five (5) foot square and be at right angles to the parallel lines. Any new sidewalk adjoining an old sidewalk or a sidewalk which abuts curb and gutter shall have one-half (1/2) by four (4) inch expansion joints of premolded material.
- (6) **Slope.** All forms must be approved by the City Administrator or his/her designee before concrete is poured. To provide adequate drainage, the sidewalk shall slope toward the curb at a minimum rate of one-half (1/2) inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth (1/4) inch radius edging tool. Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a six (6) to twelve (12) inch strip of street property left between the property line and the edge of the sidewalk.
- (7) **Width and Thickness.**
- a. Residential walks shall be a minimum of five (5) feet in width and not less than four (4) inches thick, or shall match existing sidewalk width in that block. However, in driveway approaches, the minimum sidewalk thickness shall be six (6) inches. Such sidewalks shall have a grade one (1) inch higher than the adjacent curb on the curb side of the sidewalk. All such sidewalks shall be constructed eight (8) inches from the adjacent lot line. In the case of a laydown type curb, the pitch shall be one-half (1/2) inch per foot from the curb in the parkway to the sidewalk with a three (3) inch minimum.
  - b. Sidewalks in front of commercial or industrial establishments shall have a width as determined by the Common Council and be five (5) inches thick, except within driveway approaches where the minimum thickness shall be seven (7) inches.
- (8) **Finishing.** The concrete shall be struck off true to grade, finished smooth and given a broom finish in transverse direction. Edges and joints shall be given a finish with a one-quarter (1/4) inch radius edging tool. Dry cement shall not be spread on a wet surface to take up excess water. Finishing operations shall be delayed until water has disappeared. Additional water shall not be placed on the concrete surface to make concrete workable. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Walks shall be kept free from all traffic at normal temperatures for forty-eight (48) hours and in cold weather [below fifty (50) degrees F.] for ninety-six (96) hours.
- (9) **Curing and Drying.** As soon as any of the concrete work herein before mentioned has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the "Impervious Coating," "Wet Fabric" or "Paper" methods. For impervious coating or membrane curing, only those materials meeting requirements of ASTM Spec. C156-44T, "Method of Test for Efficiency of Materials for Curing Concrete" shall be used. Said specifications are hereby adopted by reference as if fully set forth herein.

- (10) **Cold Weather Requirements.** When the temperature is less than forty (40) degrees F., all concrete placed in the forms shall have a temperature between fifty (50) degrees F. and seventy (70) degrees F. and shall meet the requirements as per Wisconsin Department of Transportation specifications for cold weather concrete.
- (f) **Repair or Replacement of Defective or Damaged Sidewalks.**
- (1) The Common Council shall have full discretion regarding whether a sidewalk is unsafe, defective, or insufficient and whether a sidewalk is to be repaired or replaced.
- (2) The Common Council, or a City employee under the Council's direction, may use the following guidelines to help determine whether a sidewalk is unsafe, defective, or insufficient, and whether the sidewalk is in potential need of repair or replacement in accordance with this Section:
- a. One-half (1/2) inch or more vertical differential between adjacent sharp edged individual sidewalk blocks (crack in slab) and between adjacent round edged individual sidewalk blocks (joint).
  - b. One (1) inch horizontal distance between adjacent individual sidewalk blocks.
  - c. Deterioration of the surface to a vertical depth of one-half (1/2) inch or more within each individual sidewalk block.
- (3) Pursuant to Sec. 66.0907, Wis. Stats., the Common Council may order at any time property owners to repair, or remove and replace, any sidewalk which is unsafe, defective or insufficient, irregardless of how such damage or defect may have occurred. If the property owner shall fail to so repair or remove and replace such sidewalk within twenty (20) days after service of the notice provided in Sec. 66.0907(3)(d), Wis. Stats., the Common Council or its designee shall repair or construct such sidewalk and the City Clerk shall enter the total cost thereof upon the tax roll as a special tax against said lot or parcel of land. If an emergency situation exists which is caused by a sidewalk in need of repair, the Common Council or its designee shall immediately direct the property owner to immediately make repairs. If the property owner shall fail to repair such sidewalk within the required period, the Common Council shall make the necessary repairs and the City Clerk shall enter the total cost thereof on the tax roll as a special tax against said parcel.
- (4) **Repairs.** While balancing the safety factors along with the welfare and overall aesthetics of the City, the City may employ a grinding contractor in an effort to keep the costs down for those areas of sidewalk applicable. Grinding of a sidewalk to be in confromity with (f)(2)(a) of this section shall only be at the direction of the Director of Public Works. In no other instances is the grinding of a sidewalk permissible. Because concrete patches are neither visually appealing, nor practical in terms of durability and maintenance, concrete patches are strictly prohibited.
- (5) **Minor Repairs.** Nothing in this Section shall apply to minor repairs, the cost of which does not exceed one hundred dollars (\$100.00); such repairs may be made at the direction of the City Administrator without notice, and the cost thereof may be charged to the abutting property owner in the same manner as provided in this Section for repairs.
- (g) **Notice.**

- (1) The City has an annual inspection program designed to determine what areas of sidewalk are in need of replacement. Each year either a portion or the entire area of the sidewalks located in the City are inspected to determine if there is any sidewalk in need of repair or replacement based on the condition.
  - (2) Each year, the City will publish in the official City newspaper a summary of the provisions for the laying, removing, repairing or replacement of sidewalk and identify those properties for which removal, repair or replacement is necessary. In addition, a letter will be mailed to the last known owner or agent of each property with instructions on how to identify the sections of sidewalk in need of either removal, repair or replacement, for which their property is abutting the sidewalk.
  - (3) If the property owner has not made the necessary repairs or replacement within twenty (20) days from the date of publication and mailing of the notice under subsection (g)(1), or other later date as specified in the notice, the City will make the necessary repairs in accordance with (f)(3) of this section.
- (h) **Illegal Sidewalks.** No sidewalk which shall be constructed contrary to the provisions of this Section shall be considered a legal sidewalk and the same may be ordered to be replaced with a legal sidewalk and with one that is in conformity with this Section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.
- (i) **Penalties.**
- (1) **Failure to Obtain Permit.** Should any sidewalk work be commenced prior to the issuance of a permit, the property owner will be subject to a penalty as set by the City Council from time to time. .

*State Law Reference:* Sec. 66.0907, Wis. Stats.

### **Section 6.2.3 Curb and Gutter Construction.**

All cement curb and gutter hereafter rebuilt or constructed in the City of Hillsboro shall be constructed according to the following specifications:

- (a) **Establishment.** No curb and gutter shall be worked until the grade thereof has been established according to the records on file in the office of the City Clerk. No person shall alter the grade of any curb and gutter within the City of Hillsboro by any means whatsoever, unless authorized or instructed to do so by the Common Council or the City Administrator.
- (b) **Owner to Construct.**
  - (1) **Petition to Build Curbs.** Whenever a petition of a majority of the abutting owners of property on any street is filed with the Common Council or when the Common

- Council deems it necessary to order curbs to be laid upon any street, the Common Council may direct and order said work to be done.
- (2) **Resolution Required.** Upon the passage of a resolution by the Common Council ordering curbs to be laid on any street it shall become the duty of the abutting owner or owners to construct same in accordance with the existing ordinance, or in accordance with specifications contained in any ordinance or resolution adopted by the Common Council. Said curbs shall be constructed within thirty (30) days from the date of the written notice to be served on said residential owner or owners by the City Administrator and the publication of notice to non-residential owners published in the official City newspaper. If said curb shall not be laid within said thirty (30) day period the City Administrator shall forthwith build or cause to be built such curb and the cost thereof shall be charged to the respective properties and the cost of the same shall be collected as a special tax.
- (c) **Permit Required.** No person shall hereafter lay, remove, replace, or repair any curb and gutter within the City of Hillsboro unless he/she is under contract with the City to do such work or has obtained a permit therefor from the City at least three (3) days prior to the proposed construction. No fee shall be charged for such permit.
- (d) **Specifications.** All curb and gutter within the City of Hillsboro hereafter shall be repaired, rebuilt and constructed in accordance with Section 6.2.2.

## Section 6.2.4 Excavations of Streets, Alleys, Public Ways and Grounds.

- (a) **Permit Required.**
- (1) **Permit to Be Obtained.** No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ditch, public ground, public sidewalk or City-owned easement within the City of Hillsboro without a permit therefor from the City Clerk or City Administrator.
- (2) **Fee.** The fee each application for a street opening permit shall be set by the City Council from time to time plus any actual City expenses. Applications may be made for multiple street openings on one (1) application form, at the set fee; however, each opening must be listed at the time the application is submitted to the City Administrator for approval. Permit fees shall be paid to the City Clerk who shall issue a receipt therefore. If the street opening is made prior to the receipt of an approved street opening permit from the City Administrator, the application and review fee as set by the City Council shall be applied plus any actual City expenses, including but not limited to street patching and repairs.
- (3) **Execution of Permit.**
- a. Permits will show the exact location of the work as to street or house number and the direction and length the trench will run.

- b. Permits will be issued only for the date and time specified, should digging take place other than the time indicated, the permit must be re-issued so all utilities will know of the new time.
- (4) **Permits for Extensive Digging.** When any utility will be doing any extensive digging, a blanket permit will be issued, however, the party doing the work must notify all other utilities concerned as to the location and time that work will take place so that the others may locate their property.
- (5) **Fee; Emergency Excavation.** In the event of an emergency excavation for the protection of property, life, health, or safety and as authorized in Section 6.2.4(h), there shall be no permit fee (except any actual City expenses shall be charged to the permittee) provided the application for the street opening permit is filed with the City Administrator within two (2) regular business days of the excavation in accordance with Section 6.2.4(h). If the permit application for the emergency excavation is not filed within two (2) regular business days, the application and review fee as set by the City Council shall be applied plus any actual City expenses.
- (b) **Application for Permit.** The application for a permit shall be in writing and designed by the applicant or his/her agent. The applicant shall submit to the City Clerk, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The City Clerk shall determine if sufficient information is submitted.
- (c) **City Work Excluded.** The provisions of this Section shall not apply to excavation work under the direction of City departments or employees or to contractors performing work under contract with the City necessitating openings or excavations in City streets.
- (d) **Validity of Permit.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided for under Subsection 6.2.4(a)(4) above.
- (e) **Renewal of Permit.** If operations have begun under an approved permit and will continue beyond the thirty (30) day validation period, the permittee shall apply for a thirty (30) day permit renewal by written request to the City Clerk. Permit renewals shall be issued at the discretion of the City Clerk.
- (f) **City Standards.** All street work by contractors shall be performed in accordance with the current standard specifications for street openings found in this Section. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.
- (g) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the City Clerk satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000 per one (1) person, \$500,000 for one (1) accident and property damage coverage of not less than \$500,000.
- (h) **Bond.**
  - (1) Before a permit for excavating or opening any public street, sidewalk, ditch, alley or public right-of-way may be issued, the applicant may be required to execute and deposit with the City a bond in the amount of Ten Thousand Dollars (\$10,000.00), conditioned that he/she will indemnify and save harmless the City of Hillsboro and its officers from all liability for accidents and damage caused by any of the work covered

- by his/her permit, and that he/she will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the City Administrator for a period of one (1) year, and that he/she will pay all fines or forfeitures imposed upon him/her for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Common Council and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the City. Such bond shall also guarantee that, if the City shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year. Recovery on such bond for any accident, injury, violation of law, ordinance, rule or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries or violation of law during the period of excavation for which it is given.
- (2) An annual bond may be given under this Section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as specified above and in the amount determined by the City Administrator as necessary to adequately protect the public and the City.
  - (3) Faulty work or materials shall be immediately replaced by the permittee upon notice by the City. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The City Administrator shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.
  - (4) The person who does such restoration shall be responsible therefor for one (1) year from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the City in an amount determined by the City Administrator.
  - (5) Whenever the Common Council shall find that any such work has become defective within one (1) year of the date of completion, it shall give written notice thereof to the contractor or to his/her surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Common Council to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.
- (i) **Special Tax.** In the alternative to the procedures under Subsection (h) above, if any person shall open a street for the purpose of servicing a specific without first having obtained a permit, the Common Council of said City shall cause the same to be done at the expense of the lot owner, and the expense thereof shall be certified to the City Clerk by the council, and if said expense is not paid, it shall be carried into the tax roll as a special tax against the lot for which said opening was made.
  - (j) **Public Utilities.** All public utilities as defined in Sec. 196.01(5)(a), Wis. Stats., are hereby required to be bound by the terms and conditions of this Section and Section 6.2.5, any and

all subparagraphs thereunder, except that a public utility as defined within this Section shall not be required to post the indemnity bond.

## **Section 6.2.5 Regulations Governing Excavations and Openings.**

- (a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 1st and May 1st except where it is determined by the City Administrator or his/her designee to be an emergency excavation.
- (b) **Election of City to Perform Work.**
  - (1) The City shall repair street surfaces and bill the permit holder actual cost plus fifteen percent (15%) for street work repairs.
  - (2) Where the Common Council or its designee has reason to believe that the applicant has made adequate provisions for repair and restoration of said street, alley or highways, the Common Council may elect to have the applicant do said work and the City of Hillsboro to further be reimbursed for reasonable costs of supervision, said costs to be determined by the Common Council.
- (c) **Protection of Public.**
  - (1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the City and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the City Administrator, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid.
  - (2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his/her employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
  - (3) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his/her project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.
  - (4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workers or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the City Administrator twenty-four (24) hours prior to

commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Section 6.2.5(i).

- (5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 6.2.5(i).

(d) **Pavement Removal.**

- (1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his/her work and in accordance with all applicable codes and regulations.
- (2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The City Administrator or his/her designee shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
- (3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.
- (4) The City Administrator or his/her designee may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.

(e) **Excavation.**

- (1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed. As little as possible of the trench must be dug until the slant of junction-piece of the sewer, water, gas main, electric cables, telephone lines or fuel line is found.
- (2) All conduits, sewers, pipes, wires or other means of transmission of utility services within the City, if to be placed underground, shall, in addition to all of the requirements of this Section, be dug in at least thirty (30) inches below the normal ground level whenever said utility service will cross under a highway, City street, sidewalk, alley or other public right-of-way within the City of Hillsboro.
- (3) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

(f) **Backfilling.**



- (1) All backfill material shall be free from cinders, hot mix fragments, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight (8) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the City Administrator or his/her designee, is unsuitable. All noncompactable material will be placed, upon excavation, in an area where removal from site will be made readily possible.
- (2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the City Administrator or his/her designee, hauled in, or be refilled by the City.
- (3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
- (4) Mechanical compaction or puddling shall be used on all materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly compacted. Compaction or consolidation by flooding shall not be permitted. Earth must be puddled or laid in layers not more than twelve (12) inches in depth and each layer rammed and tamped to prevent settling. The Public Works Department will test the fill to meet the City's specifications. Contractors will be instructed by the City's inspector, if he/she meets the specifications, to proceed to fill the opening.
- (5) All excavations shall be subject to testing by the City. Backfilled material not achieving the above compaction requirements shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.
- (6) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation. When caving occurs, all the street support thus disturbed must be restored in the same careful manner as though it was an excavation or a trench.
- (g) **Notice.** It shall be the duty of the permittee to notify the City Administrator and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The City Administrator shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.
- (h) **Pavement Replacement and Sidewalk, Curb and Gutter and Driveway Restoration.**
  - (1) Backfill material shall be left below the original surface to allow for five (5) inches of three (3) inch crushed stone and four (4) inches of three-quarter (3/4) inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter (3/4) inch crushed stone.
  - (2) Bituminous pavement shall be placed the full depth of the existing pavement or three (3) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of one and one-half (1-1/2) inch layers with each layer compacted to maximum

- density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge.
- (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the City Administrator or his/her designee.
  - (4) All permanent restoration of street, curb and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform with the grade of the existing adjacent curb and gutter.
  - (5) All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed and to the lines and grades as given by the City Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.
  - (6) Sidewalks shall be replaced the full width of the walk and minimum length shall be sixty (60) inches. All replaced walk shall be four (4) inches thick, except at driveways where it shall be six (6) inches thick. The new walk shall slope to conform to existing construction across the width of the walk toward the street.
  - (7) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three and one-half (3-1/2) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.
  - (8) When a street is reconstructed, utility laterals shall also be installed, including sump pump laterals, even if not immediately needed.
- (i) **Emergency Excavation.**
- (1) In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his agents and employees make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than within the next two (2) business days and shall notify City officials immediately.

- (2) In case of emergencies such as ruptured mains, cables or anything where digging must take place immediately, all utilities may be notified by telephone and informed as to the location of the work as an alternative to the procedure in Section 6.2.4(a).
- (j) **Excavation in New Streets Limited.** Whenever the City determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination, the City shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Common Council, or committee thereof, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces.
- (k) **Repair by City.** The City may elect to make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening. In the event such charges are not paid within ninety (90) days of actual notice of the same having been furnished the applicant and owner of the premises for which said permit was issued, it shall become a lien against said premises and thereafter be assessed and collected as a special tax.

*Cross-Reference:* Section 6.2.21, Regulations Regarding Occupancy of Streets by Utilities.

## Section 6.2.6 Obstructions and Encroachments.

- (a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he/she is the owner or occupant, except as provided in Subsections (b) and (c).
- (b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:
- (1) Temporary encroachments or obstructions authorized by street privilege permit under Section 6.2.7 pursuant to Sec. 66.0425, Wis. Stats.
  - (2) Building materials for the period authorized by the Common Council, Common Council, or authorized designee, which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.
  - (3) Excavations and openings permitted under Sections 6.2.4 and 6.2.5 of this Code.

- (4) Awnings which do not extend below any point seven (7) feet above the sidewalk, street or alley.
  - (5) Public utility encroachments duly authorized by state law or the Common Council.
  - (6) Temporary obstructions authorized by permit pursuant to 6.2.7, or warning pursuant to 6.2.6(c) or (d).
  - (7) Goods, wares, merchandise, or fixtures being loaded or unloaded which do not extend more than three (3) feet on the sidewalk, provided such goods, wares, etc., do not remain thereon for a period of more than two (2) hours.
  - (8) Signs attached to buildings permitted by the City's Sign Code, and which do not extend below any point ten (10) feet above the sidewalk, street or alley.
- (c) **Removal by City for Sidewalk Obstructions and Encroachments.** In addition to any other penalty imposed, if any City enforcement official determines that a sidewalk is unlawfully obstructed in violation of this Section, he/she shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.
- (d) **Removal by City for Obstruction and Encroachments Located in the City Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if the Chief of Police, City Administrator or Building Inspector determines that a City street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he/she shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within twenty-four (24) hours.
- (e) **Failure to Remove Obstruction.**
- (1) If the owner or occupant fails to remove the obstruction within the time period established in Subsections (c) or (d) respectively, the Council shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk shall enter those charges onto the tax roll as a special tax as provided by the Wisconsin Statutes.
  - (2) The failure of the City Clerk to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the City expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section.

## **Section 6.2.7 Street Privilege Permit.**

- (a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways or places of the City may be granted to applicants by the City Administrator for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or

structure (including the placement of dumpsters on right-of-ways), provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The City Administrator may request advisory recommendations from the Chief of Police and Building Inspector prior to issuance of the permit. City officials may attach conditions to the permit, including proof of liability insurance.

- (b) **Bond.** No street privilege permit shall be issued until the applicant shall execute and file with the City Clerk an agreement that the applicant will indemnify and save harmless the City from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the City resulting from such building or moving operations. As such time, evidence of liability insurance as prescribed in Section 6.2.4(g) shall also be filed.
- (c) **Fee.** There shall be a fee set by resolution and amended from time to time by the Hillsboro City Council for a street privilege permit.
- (d) **Conditions of Occupancy.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Building Inspector, Chief of Police or City Administrator for violation thereof:
  - (1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.
  - (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
  - (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.
  - (4) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
  - (5) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- (e) **Termination.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Common Council.
- (f) **Removal by City.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within twenty-four (24) hours after such notice from the Common Council to do so, it shall be the duty of the City to remove such obstruction and make return of the costs and expenses thereof to the City Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

*State Law Reference:* Sec. 66.0425, Wis. Stats.

## **Section 6.2.8 Snow and Ice Removal.**

- (a) **Removal From Sidewalks.** The owners or occupants of any building or buildings, lot or lots, or any part thereof, or of any premises within the City of Hillsboro are required to remove snow and ice from the sidewalks adjacent thereto to the full width thereof within twenty-four (24) hours after it has stopped snowing. Whenever the surface of any such sidewalk shall become slippery from any cause so as to render it dangerous to travelers, such owner or occupant, or either of them, shall remedy such slippery condition by removing the icy surface therefrom or by causing such surface to be sprinkled with sand or salt, or by other effective means, within twenty-four (24) hours after snow has ceased.
- (b) **Failure to Remove.** In case of failure or neglect of any owner or occupant of any land or parcel of land to remove the snow from sidewalks as specified in Subsection (a) within the time set forth in said Subsection, the City Administrator may remove or cause the snow to be removed from any and all sidewalks and cross-sidewalks that may be so neglected by the owner or occupant, and a fee established by the Common Council shall be assessed against the owner or occupant for the cost and expense of moving such snow. The fee will be charged against the respective lots and parcels of land adjacent to which said work shall be done, as a special tax, and such sum or sums shall be collected in the same manner as other special taxes. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within thirty (30) days after such costs and expenses are incurred and remain unpaid, the Clerk shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.0703, Wis. Stats.
- (c) **Prohibited Placement.** Except as provided herein, no person shall deposit or cause to be deposited any snow or ice taken and removed from his/her premises or elsewhere upon any sidewalk, alley, parkway, public place or street in the City, provided however, that the person, firm, or corporation depositing such snow shall, within one (1) hour thereafter, cause the same to be removed from such street.
- (d) **Snow and Ice as Nuisance.** The deposit of any snow or ice upon any sidewalk, alley or street of the City contrary to the provisions of this Chapter shall be and is declared to be a nuisance, and in addition to the penalty provided for violation of this Section, the City may similarly remove any snow or ice so deposited and cause the cost of said removal to be charged to the owner or occupant of the property from which said snow or ice has been removed.
- (e) **Private Driveways; Alleyways.** The requirements imposed by this Section shall furthermore extend to private driveways and to unmaintained alley ways crossing or abutting the person's property. Each owner, occupant or person in charge shall clear and maintain a pedestrian passageway across such driveways or alleys continuing in line with the existing sidewalk. In the event the driveway or alley is entirely located upon or within

the person's property, the person shall be responsible for maintaining such passageway across the entire width of the driveway or alley. In the event such alley merely abuts the person's property, each abutting owner, occupant, or person in charge shall be responsible for maintaining such passageway across one-half (1/2) the width of the alley.

- (f) **Penalties.** In addition to the liability of the owner or occupant of lands under Subsection (b), the penalty for violation of any provision of this Section of the Code will be a penalty as provided in Section 1.1.7. A separate offense shall be deemed committed for each day of which a violation of this Section occurs or continues.

*State Law Reference:* Secs. 66.0703 and 66.0907, Wis. Stats.

## **Section 6.2.9 Terrace Areas.**

- (a) **Definition.** The definition of "terrace" shall be as defined in Section 6.4.2(e).
- (b) **Noxious Weeds; Paving.** All that part of the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Common Council or its designee. Basketball backstops, statuary, structures, flag poles and other objects shall not be placed in the terrace area.
- (c) **Responsibility to Maintain.** Every owner of land in the City whose land abuts a terrace is required to maintain, or have maintained by his/her tenant, the terrace directly abutting such land as provided in this Section and elsewhere in this Code. Every owner shall keep mailboxes and hydrants located on a terrace free and clear of snow.

*Cross-Reference:* Title 6, Chapter 4.

## **Section 6.2.10 Vaults.**

All vaults and cisterns under sidewalks shall be prohibited.

## **Section 6.2.11 Requests for Improvements.**

Requests or petitions by City property owners for new streets, street resurfacing, curb and gutter, storm sewers, utility work and sidewalks shall be presented to the Common Council on or before September 15th to be considered for installation in the following year.

## **Section 6.2.12 Unlawful Dumping on Streets.**

It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley, or upon any public property or upon any property of another, without the express permission of the owner of occupant thereof. Such unlawful material or obstruction may be removed by the City and the cost thereof billed to the violator pursuant to Sec. 66.0703, Wis. Stats.

## **Section 6.2.13 Street Numbers.**

- (a) **Established.** There is established a uniform system of numbering houses and buildings fronting on all streets, avenues and highways in the City of Hillsboro; and all houses and buildings shall be numbered in accordance therewith.
- (b) **House Numbering Map.** The numbering for each street, avenue and public way is hereby established as shown on the map entitled "Housing Numbering Map, Hillsboro, Wisconsin," which map is a part of this Section by reference. All notations and references shown on the House Numbering Map are as much a part of this Section as though specifically described herein:
- (c) **Base for Numbering.**
  - (1) Except as otherwise shown on the numbering map, Water Avenue shall constitute the base line for numbering along all streets running northwesterly and southeasterly. The numbering of each street or avenue shall begin at the base line. The numbers within the first block, each way from Water Street, shall be in the 100 series, and the numbers in each succeeding block shall increase from the base line in units of 100, namely: the first block shall be the 100 block, the second block shall be the 200 block, the third block shall be the 300 block, etc.
  - (2) Because of the street layout of the City, no attempt is made to constitute a base line for streets running northeasterly and southwesterly, but the blocks shall be numbered as shown on the House Numbering Map. In general, Mill Street shall be the dividing line between the 700 and 800 blocks, with the blocks lying northeasterly of Mill Street being numbered progressively upward, that is, 800, 900, etc, and the blocks lying southwesterly Mill Street being numbered progressively downward, that is, 700, 600, etc.
- (d) **One Number Per Fifteen (15) Feet.** As far as possible, in each block one number shall be assigned to each fifteen (15) feet of frontage. In blocks or equivalent space longer than seven hundred fifty (750) feet, the total length of space divided by fifty (50) shall be used to determine the feet of frontage assigned to each number.
- (e) **Odd and Even Numbers.**
  - (1) On streets running northwesterly and southeasterly, all lots and houses on the northeasterly side of the street shall be numbered with even numbers, and all lots and houses on the southwesterly side of the street shall be numbered with odd numbers.



- (2) On the streets running northeasterly and southwesterly all lots and houses on the southeasterly side of the street shall be numbered with even numbers, and all lots and houses on the southwesterly side of the street shall be numbered with odd numbers.
  - (3) On streets running east and west, all lots and houses on the north side of the street shall be numbered with even numbers, and all lots and houses on the south side of the street shall be numbered with odd numbers, except as indicated otherwise on the House Numbering Map.
  - (4) On streets running north and south, all lots and houses on the east side of the street shall be numbered with even numbers, and all lots and houses on the west side of the street shall be numbered with odd numbers.
  - (5) For new streets or plats hereafter made, the Common Council will determine the system of numbering.
  - (6) If the building is not fifteen (15) feet or more in width and the entrances are not that far apart, the next consecutive number shall be marked fractional. Buildings fronting on two (2) or more street shall have the number assigned only to the main entrance, unless other entrances serve different occupants.
- (f) **Standards.**
- (1) The cost of the number or numbers shall be borne by the property owners. The numbers may be procured from the City Clerk at the unit price for the same, such price to be the cost of such units to the City. Replacement numbers shall be procured and paid for by the owner.
  - (2) In order to assist emergency personnel, the numbers shall be conspicuously placed immediately above, on or at the side of the proper door of each building so that they can be plainly seen from the street. Whenever any building is more than fifty (50) feet from the street line, the number of the building shall be conspicuously displayed at the street line, near the walk, driveway or common entrance to such building and upon a gate post, fence, tree, post or other appropriate place so as to be easily discernable from the sidewalk. The numbers shall be not less than two and one-half (2-1/2) inches in height, with dark lettering against a light background. Script numbers may not be used as the primary address numbers.
- (g) **Records.** To facilitate correct numbering, a plat book of all the streets, avenues and public highways within the City showing the numbers of all lots or houses fronting thereon shall be kept on file in the office of the City Clerk. These plats shall be open to public inspection during the office hours of the City Clerk.
- (h) **Assignment of Numbers.** The City Clerk shall inform any party applying therefor of the number or numbers belonging to or embraced within the limits of any lot or property as provided in this Section. In case of doubt as to the proper number to be assigned to any premises, the City Clerk shall determine the number of such premises.
- (i) **Number Assignment as Condition For Building Permit.** Whenever any house, building or structure is erected or located in the City after the entire work of establishing a uniform system of house numbering has been completed, in order to preserve the continuity and uniformity of numbers of the houses, buildings and structures, the owner shall procure the correct number or numbers from the City Clerk for the property and shall immediately fasten such number or numbers so assigned upon such building as provided in this Section.

No building permit shall be issued for any house, building or structure until the owner has procured from the City Clerk the official number of the premises.

- (j) **Distinctive Numbers for Portions of Buildings.** Where only one (1) number can be assigned to any house or building, the owner, occupant or agent of such house or building, who shall desire distinctive numbers for the upper and lower portion of any such house or building, or for any part of such house or building, fronting on any street, such owner, occupant or agent shall use the suffix "A", "B", "C", etc., as may be required.

## **Section 6.2.14      Obstruction of Public Ditches.**

No person shall in any manner obstruct or cause to be obstructed the free passage of water in any public gutter, ditch, culvert, swale or drain or place or cause to be placed any rubbish, dirt, sand, gravel or any other matter or thing so that the same is likely to be carried by the elements into any public gutter, ditch, culvert, swale or drain. Such unlawful material or obstruction may be removed by the City and the cost thereof billed to the violator pursuant to Sec. 66.0703, Wis. Stats.

## **Section 6.2.15      Construction Site Erosion Control**

- (a) **Intent.** The intent of this ordinance is to require erosion control practices that will reduce the amount of sediment and other pollutants leaving construction sites during land development or land disturbance activities. This ordinance applies to all land disturbing construction activities.
- (b) **Purpose.** It is the purpose of this ordinance to preserve the natural resources; to protect the quality of the waters of the State and the City; and to protect and promote the health, safety and welfare of the people, to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams, and wetlands.
- (c) **Applicability of Ordinance.** This ordinance applies to land disturbing and land developing activities on lands within the boundaries and jurisdiction of the City of Hillsboro and, optionally, the public and private lands subject to extraterritorial review under Chap. 236 Wis. Stats. All state funded or conducted construction is exempt from this ordinance.
  - (1) This section is applicable to:
    - a. The construction of houses or commercial, industrial, or institutional building on lots within the City limits of Hillsboro.
    - b. Activities involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activities affecting a surface area of four thousand (4,000) square feet or more, or activities involving excavation or filling or a combination of such involving four hundred (400) cubic yards or more of dirt, sand or other excavation or fill material;

- c. Activities involving street, highway, road, or bridge construction or the repairing, replacing, or enlarging of an underground pipe of three hundred (300) feet or more.
- (d) **Pumping of Water / Dewatering.** The City Water and Sewer Superintendent must be contacted prior to the pumping of any water from the site into storm drains. Based on the volume of discharge or use, specific erosion control measures may be required and tests on the water to be discharged may be made to occur. Water may not be discharged in a manner that causes erosion of the site or receiving channels.
- (e) **Waste and Material Disposal.** All waste and unused building materials; including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials, shall be properly disposed and not allowed to be carried by runoff into a receiving channel or storm sewer system.
- (f) **Erosion Control Permit.** The Building Inspector shall require that an erosion control plan be submitted before any applicable construction or site disturbance occurs. By receiving said permit, the applicant is authorizing the City to enter the site to obtain information required for erosion control, and is agreeing to abide by the standards of this ordinance.
  - (1) Content of an Erosion Control Plan should include:
    - a. Existing Site Map – detailing property boundaries, water-ways, flood fringes and floodways, vegetative cover of the site, topography, utility locations, structures, roadways and easements.
    - b. Locations and dimensions of all land disturbing activities and temporary soil or dirt piles.
    - c. Schedule of activities for construction period.
    - d. Contact information for any questions regarding erosion control as well as the site manager’s contact information.
  - (2) Three (3) copies (working copy, Building Inspector Copy, City Administrator Copy) of the Erosion Control Plan must be submitted to the building inspector.
- (g) **Enforcement.**
  - (1) The Building Inspector or City Administrator may post a stop-work order if:
    - a. Any land disturbing activity regulated under this section is being undertaken without a permit.
    - b. The Erosion Control Plan is not being implemented in a good faith manner.
    - c. Conditions of the Building Permit are not being met.
  - (2) If the permittee does not cease the activity or comply with the erosion control plan or permit conditions within three (3) days, the Building Inspector or City Administrator may revoke the permit.
  - (3) If the landowner or land user where no permit has been issued does not cease the activity that requires a permit, the penalty shall be as outlined in section 15.1.15 and 15.1.16 and in addition is susceptible to a cease and desist order or citations of violation.
- (h) **Appeals.** The Hillsboro City Council shall hear all appeals with it is alleged that there is an error in any order. Those wishing to appeal must provide notice to the City Administrator or City Clerk at least fifteen (15) days before the next regularly scheduled City Council Meeting.

## **Section 6.2.16 Bidding of Public Construction Projects.**

- (a) **Nonbid Construction.** The City, without submitting the same for bids, may perform its own public construction.
- (b) **Contracts, How Let.** All public construction, the estimated cost of which exceeds Ten Thousand Dollars (\$10,000.00), shall be let by contract to the lowest responsible bidder; all other public construction shall be let as the Council shall direct. If the estimated cost of any public construction exceeds Five Thousand Dollars (\$5,000.00), but is not greater than Ten Thousand Dollars (\$10,000.00), the Board of Public Works shall give a Class 1 notice under Chapter 985, Wis. Stats., of the proposed construction before the contract for construction is executed. The Council may also by a vote of three-fourths (3/4) of all the members-elect provide by ordinance that any class of public construction or any part thereof may be done directly by the City without submitting the same for bids.

## **Section 6.2.17 Dirt and Debris on Streets.**

- (a) In the interests of public safety, health and general welfare, community appearance, and efficiency of operation, it shall be unlawful to place, throw, leave, in any way deposit or permit to be deposited, or permit to remain any dirt, leaves, rubbish, litter, debris or material of any kind upon any street, sidewalk, alley, drainageway, or public ground in the City of Hillsboro. The owners or occupants of any building or buildings, lot or lots, or any part thereof, or of any premises within the City are required to remove dirt or rubbish from the sidewalks that they have so placed adjacent thereto the full width thereof before noon of each day.
- (b) The owner, occupant, or person in charge of private premises, which places, causes or permits to remain, any of said materials upon any street, sidewalk, alley, drainageway or public ground in the City of Hillsboro shall immediately remove said materials at no cost to the City.
  - (1) The operator of any motor vehicle which tracks, drops, or places any materials upon any street, sidewalk, alley, drainageway or public ground in the City of Hillsboro shall immediately stop and remove said materials at no cost to the City.
  - (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator causes the deposition of any materials upon any street, sidewalk, alley, drainageway, or public ground in the City of Hillsboro, and which said operator fails to remove said materials as required in 6.2.17(b)(1), the owner, occupant, or person in charge of said work on said private premises, shall remove said materials at no cost to the City.
- (c) In the event the materials are not removed from the street in accordance with 6.2.17(a), (b), (b)(1), and/or (b)(2) above, the City shall cause the removal of such materials and shall

charge said operator, or said owner, occupant, or person in charge of said work the cost of the removal. In the event the person charged for said removal fails to pay such costs within thirty (30) days, it shall be entered on the tax roll as a special tax against said property.

- (d) In addition to the costs of removal, said operator, or said owner, occupant, or person in charge of said property shall be subject to a penalty per occurrence as prescribed in Section 1.1.7. Each day that said materials are not removed, shall constitute a separate offense under this Section.

## **Section 6.2.18 Damages to Streets and Public Property.**

- (a) In the interests of public safety, health, general welfare, community appearance, and efficiency of operation, it shall be unlawful in any way to cause damage, injury, or destruction, to any portion or any fixture of any street, sidewalk, alley, drainageway, or public ground in the City of Hillsboro.
- (b) The person which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the City of Hillsboro shall immediately stop and notify the Police or Public Works Department that he/she has caused such damages and shall correct said damages within ten (10) days at no cost to the City.
  - (1) In the event the operator of any motor vehicle or equipment which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the City of Hillsboro, fails to report such damage, it shall be considered a violation of this Section.
  - (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator causes the damage of any portion or fixture of any street, sidewalk, alley, drainageway, or public ground in the City of Hillsboro, and which said operator fails to correct said damages as required in this Section, the owner, occupant, or person in charge of said work on said private premises, shall correct said damages at no cost to the City.
- (c) In the event the damages are not corrected within ten (10) days, the City shall cause the correction of said damages and shall charge the operator, or owner, occupant, or person in charge of said property the cost of correcting the damage. In the event the said costs remain unpaid following thirty (30) days, it shall be entered on the tax roll as a special tax against said property.
- (d) In addition to the costs to correct damages, said operator, or said owner, occupant, or person in charge of said property shall be subject to a penalty per occurrence as prescribed in Section 1.1.7. Each day after said ten (10) days that the damages are not corrected, shall constitute a separate offense under this Section.

***State Law References:*** Sec. 66.0425, Wis. Stats.

## **Section 6.2.19          Adoption of State Statutes Concerning Roads.**

The statutory provisions in the following enumerated Sections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of said statutes, are hereby adopted and, by reference, made a part of this Section. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this Section. Any future amendments, revisions or modifications of the statutory regulations incorporated herein are intended to be made part of this Section.

- (a) Sec. 82.19          Highways, Discontinuance of.
- (b) Sec. 66.1035      Streets, Right of Abutting Owners.
- (c) Sec. 893.83      Highways, Liability for Defects.
- (d) Sec. 86.03        Trees, On and Adjacent to Highways.
- (e) Sec. 86.04        Highway Encroachments
- (f) Sec. 86.05        Highways, Duty to Restore Entrances.
- (g) Sec. 86.06        Highways, Closing to Travel.
- (h) Sec. 86.07        Highways, Depositing Rubbish or Digging In.
- (i) Sec. 86.105      Driveways, Snow Removal.
- (j) Sec. 86.19        Highway Signs, Regulation, Prohibition.

## **Section 6.2.20          Grass Clippings.**

In order to improve storm sewer water quality, no property owner or occupant required to mow grass shall permit grass trimmings resulting from mowing of lawns or tree borders to be deposited onto any portion of the street, public alley or public parking lot. The presence of grass trimmings for a period in excess of two (2) hours upon the public property shall be conclusive evidence of the depositor's intent not to remove them. The penalty for depositing the grass clippings onto the street shall result in a written warning. The second and subsequent offences will result in a fine of pursuant to Sec. 1.1.7.

## **Section 6.2.21          Regulations Regarding Occupancy of Streets by Utilities.**

- (a) **To Be Approved by Council.** Before any person, corporation, association or public body shall erect, construct or maintain any telegraph, telephone or electric poles, or any pipes, conduits, sewers or drains upon, along, or within any street or alley, they shall submit to the Common Council the route of the proposed line or lines or any extension thereof of those poles, conduits, sewers or pipes, stating the name of the street or streets to be occupied, or, if an alley, the number of the block and as far as practicable, the location of the lines of the utility, and no such poles, sewers, conduits, drains or pipes shall be constructed, erected or

laid until permission shall have been first obtained from the Common Council. The Council shall refer any such application for the use of any street to the City Administrator and he/she shall determine the time and manner of using the streets for laying, changing, placing or maintaining any pipes, conduits, poles, sewers or drains therein provided that its decision in this regard may be reviewed by the Common Council.

- (b) **Use of Alleys When Practicable.** Whenever the use of any alley for the purpose of erecting poles or constructing sewers, drains, pipes, or conduits is practicable, such poles or such sewers, drains or conduits shall be placed upon or along that alley, instead of along or upon a public street. When poles are set in any alley they shall be located as near the sidelines as practicable and in such manner as not to unreasonably inconvenience the public or adjoining proprietors or residents.
- (c) **Location of Poles.** When telephone, telegraph or electric poles are erected in a street they shall be erected in all cases, unless specifically directed by the Common Council or designee, on the outer edge of the sidewalk, just inside the curb stone, and on the line dividing the lots one from another; and in no case shall they be so placed as to unreasonably incommode the public or the adjoining proprietor or resident, or to disturb the drainage of the street, or to interfere with or damage the trees or other public or private property on the line of the street or alley where such pole or poles shall be erected. Whenever any street or alley in which there exists or may be any telegraph, telephone or light poles, or any sewers, drains, pipes or conduits of any private or public utility or public body, shall be repaired or improved, it shall be the duty of the person, firm, corporation, utility or public body owning, operating or maintaining such poles, pipes, drains, sewers or conduits to make at his/her or their own expense such changes or alterations in the location, construction, grade, elevation or such other changes as may be necessary to conform to the new construction or improvement of the street or alley ordered or authorized by the City.
- (d) **Right of City to Use Poles and Conduits.** The City shall have the right to use without charge a place on any pole or post, or any conduit erected or laid in the streets, alleys or other public places of the City for the purpose of stringing thereon or for laying therein a wire or wires for the exclusive use of the City departments; and no such pole or posts or conduit so used shall be removed until the Police Chief and City Administrator shall have been reasonably notified of such contemplated removal.
- (e) **Persons Erecting Poles or Laying Wires Shall Save City Harmless.** Every person, corporation or association erecting any poles, posts or wires, or laying nay conduits herein mentioned shall, before commencing the erection of those poles or posts, and before the stringing of any wires or laying of any conduits, file an agreement with the City Clerk to save the City harmless of and from any and all injury and damage of any kind caused or occurring thereby or by reason of the negligent management or default of any persons, corporation or association or its or their agents, in the construction, management or operation of those poles, wires or conduits, and also an agreement giving to the City the use of a place on all poles or posts and the use of all conduits as hereinbefore prescribed.
- (f) **Emergency Repairs, Restoration or Replacement.** Where an emergency arises in the operation of any telegraph, telephone or electric poles, or any pipes, conduits, sewers or drains upon, along or within any street or alley, the person, firm, corporation, utility or public body owning, operating or maintaining such poles, pipes, drains, sewers or conduits

may, without first securing permission from the City Administrator, and at their own expense, repair, restore or replace such portion or portions of their physical facilities as have been damaged and create such emergency; provided, however, such person, firm, corporation, utility or public body shall make a full and complete report and within five (5) days of completion of the work to the City Administrator of the damages arising out of such emergency and the repairs, restoration or replacement made to their physical facilities.

- (g) **Minimum Conduit Depth.** All conduits, sewers, pipes, wires or other means of transmission of utility services within the City, if to be placed underground, shall, in addition to all of the requirements of this Section, be dug in at least thirty (30) inches below the normal ground level whenever said utility service will cross under a highway, City street, sidewalk, alley or other public right-of-way within the City of Hillsboro.

*Cross-Reference:* Sections 6.2.4 and 6.2.5

## **Section 6.2.22          Dumpsters on Public Ways**

- (a) **Placement of Dumpsters on Public Ways.** No person, firm or corporation engaged in the business of leasing dumpsters or refuse containers for the storage of materials discarded or used in the process of construction or alteration of buildings, are to place or allow for placement of such dumpsters or refuse containers in any street, alley, highway, sidewalk, or other public way within the City without first obtaining a permit from the City Clerk.
- (b) **Application Requirements.** Applications for placement of a dumpster or refuse container on a public way shall be on the form provided by the City. Each placement of a dumpster or refuse container requires a separate application.
- (1) **Fees.** The permit fee for each dumpster or refuse container placed in any street or public way within the City shall be established by the City Council and set forth in the City's Fee Schedule.
- (2) **Liability and Insurance.** Permittee must assume primary liability for damages to persons or property resulting from the placement of the dumpster or refuse container. Prior to issuance of a permit provided for in this Section, the permittee must furnish the City written evidence that it has in force and will maintain during the term of the permit, public liability insurance of not less than Two Hundred Thousand Dollars (\$200,000) for one (1) person, Five Hundred Thousand Dollars (\$500,000) for one (1) accident and property damage of at least One Hundred Thousand Dollars (\$100,000). Each permittee shall provide the City with a certificate of insurance, naming the City as an additional insured.
- (3) **Security.** Each permittee shall provide a Five Hundred Dollar (\$500) bond from an approved insurance or security company as directed by the City Administrator in order to ensure the removal of any dumpster or refuse container ordered removed and to cover any damages that may occur to any public property as a result of the placement or removal of such.



- (4) **Waiver.** Each permittee shall waive the right to contest in any manner the validity of sec. 66.0425, Wis. Stats., and the amount of compensation charged pursuant to this Section.
- (c) **Duration.** The initial permit application covers an approved placement of a dumpster or refuse container for a period of fourteen (14) days. Additional time may be granted by the City Administrator, for good cause, upon the request of the permittee.
- (d) **Regulations.**
  - (1) Each dumpster or refuse container shall have posted thereon the name, address and telephone number of the owner.
  - (2) Each dumpster or refuse container shall be equipped with reflectorized tape and/or lighting sufficient enough to alert persons of its presence during hours of darkness.
  - (3) No dumpster or refuse container shall be placed as to interfere with public works construction being performed by the City.
  - (4) Upon notice from the City Administrator, the permittee shall move the dumpster upon seven (7) days notice from the City. If the permittee fails to move the dumpster it will be removed at the permittee's expense. Upon notice from the City Administrator or Chief of Police in the case of an emergency, the permittee shall move the dumpster or refuse container within twenty-four (24) hours, or more expeditiously if needed.
  - (5) No dumpster or refuse container shall be placed within fifty (50) feet of the radius of any intersection, nor shall it be placed in a position which blocks the line of sight of a vehicle entering or exiting an adjacent drive.
  - (6) No dumpster or refuse container may be placed on any public right of way between November 15 and March 15, without obtaining an emergency permit to do so.
  - (7) Any damage caused to public property as the result of the placement of any dumpster or refuse container shall be repaired and restored to its original condition.
- (e) **Violations.** Any person, firm or corporation who violates this section shall be fined not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500) for each violation. Each day shall constitute a separate violation.

### **Section 6.2.23 Sidewalk Use Permits**

- (a) **Purpose.** The Common Council finds that the Downtown Commercial District would be better served if certain business could use the public sidewalk for outdoor cafe seating or for displaying merchandise under certain conditions. The Council hereby intends to create certain eligibility criteria and standards to allow for the issuance of Sidewalk Use Permits pursuant to this Section.
- (b) **Definitions.** The following definitions shall be applicable for this section:
  - (1) **Restaurant** means an establishment defined in Sec. 254.61(5) Wis. Stats. and whose food and other retail sales excluding the sale of alcoholic and alcoholic beverages are greater than fifty percent (50%) of its gross receipts.
  - (2) **Retail Store** means a business engaged in selling goods to the public for direct use and consumption but not for resale.

- (3) **Sidewalk Café** means an outdoor dining area in a public right-of-way that immediately adjoins the licensed restaurant premises for the purpose of consuming food or beverages prepared at the restaurant.
- (4) **Merchandise Display Area** means a display area in a public right-of-way that immediately adjoins the licensed retail store for which an occupancy use permit has been issued for the purpose of creating a display area for merchandise available for purchase in the retail store.
- (5) **Racks** shall mean holders or containers used to display/hold merchandise as well any other merchandise that may be displayed in the designated area.
- (c) **Eligibility Criteria.** To be eligible for a Sidewalk Use Permit, the applicant business must:
  - (1) Be a Restaurant and/or Retail Store;
  - (2) Be located in the Downtown Commercial District;
  - (3) Occupy first floor space that has direct access to a public sidewalk having a width of not less than eight feet (8').
- (d) **Permit Application.** A business that meets the eligibility criteria may apply for a permit with the City. The applicant must submit the application and the applicable fee to the City Clerk. The application shall include the following:
  - (1) A completed City Permit Application Form. Forms may be obtained from the City Clerk.
  - (2) A layout, drawn to scale, which accurately depicts the dimensions of the existing sidewalk area and adjacent private property, the proposed location of the sidewalk café or merchandise display area, the location of all doorways, trees, sidewalk benches, planters, trash receptacles, light poles, hydrants, and other sidewalk obstructions. The layout must also include all the specific elements that are to be located within the designated café and/or merchandise display area including, but not limited to, display racks, tables, chairs, planters, and barriers.
  - (3) Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed racks, tables, chairs, barriers and other objective relating to the sidewalk café or merchandise display area.
  - (4) An accurate description of the boundary of the area that the licensee seeks to be covered by the permit and a list of all property owners within one hundred and fifty (150) feet of such boundary.
  - (5) A description of the licensee's plan for operating and controlling the area.
- (e) **Notice and Consultation with City Officials.** The City Clerk shall notify the City Administrator and the Police Chief within seven (7) days of receiving the application and provide each with a copy. The City Administrator, the Police Chief, other relevant City officials, or their respective representatives, shall meet with the applicant, shall perform a walk-through of the proposed area, and shall review the details of the applicant's plan. The City Administrator or Police Chief shall report to the Common Council any additional details or information provided by the applicant that is not contained in the original application.
- (f) **Notice to Adjoining Property Owners.** The City Clerk shall notify all property owners within one hundred fifty (150) feet of the boundaries of the proposed permit area as

described in the application by first class mail within ten (10) days of receiving the application.

- (g) **Review of Sidewalk Use Permit Applications.** The Common Council shall review all Sidewalk Use Permit applications in light of the purposes of this Section, any recommendations of city officials, and the following standards:
- (1) Sidewalk use areas are restricted to the public right-of-way immediately adjacent to the restaurant or retail store to which the permit is issued and may only be operated by the restaurant or retail store to which the permit is issued.
  - (2) The sidewalk use must be for either a Sidewalk Café or Merchandise Display Area and must complement the operation of the restaurant or retail store in a manner that showcases or advertises the business to passersby.
  - (3) The business shall not use the sidewalk permit area after 10:00 p.m. or before 7:00 a.m., and shall not extend beyond the hours of operation of the respective restaurant or retail store, unless an exemption is granted by the Common Council to accommodate semi-permanent fixtures, flower pots, or other items expressly stated as being allowed beyond the hours of operation.
  - (4) Display racks, tables, chairs, umbrellas or other fixtures located in the area designated for the café or merchandise display:
    - a. Shall not be placed within two (2) feet of the curb of the street as measured by the closest edge of the table or seat with an occupant seated therein to the street.
    - b. Shall not be placed within five (5) feet of fire hydrants, alleys, or bike racks. Shall not be placed within four (4) feet of a pedestrian crosswalk or ten (10) feet of a corner curb cut.
    - c. Shall not block designated ingress, egress or fire exits from or to the restaurant, retail store or any other structure.
    - d. Shall be readily removable and shall not be physically attached, chained or in any manner affixed to any structure, tree, signpost, light pole, or other fixture, curb, or sidewalk, unless otherwise permitted by the Common Council.
    - e. Shall be removed from the public right-of-way during the period of November 1<sup>st</sup> to March 31<sup>st</sup>.
    - f. Shall be maintained in a clean, sanitary and safe manner.
  - (5) Sidewalk use areas shall be located in such a manner that provides for and maintains at all times a clear and unobstructed, continuous ADA compliant pedestrian path with a minimum width of not less than five (5) feet. For the purposes of the minimum clear path, traffic signs, trees, light poles and all similar obstacles shall be considered obstructions.
  - (6) Tables and chairs in the sidewalk use area shall be “Commercial Grade” with chairs being constructed to accommodate a weight of at least 250 pounds. Umbrellas and other decorative material shall be made of treated wood, canvas, cloth or similar material that is manufactured to be fire-resistant. No portion of an umbrella shall be less than six (6) feet eight (8) inches above the sidewalk.
  - (7) All signs shall be in accordance with the City Sign Ordinance.
  - (8) No amplified sound or entertainment shall be allowed.

- (9) The area encompassing any sidewalk café shall be roped off or otherwise enclosed by a freestanding barrier on all dates and at all times while in use. Acceptable materials for the barrier include, but are not limited to, attractive fence segments, flowers/plants, bollards, artwork and decorative menu boards, subject to the approval of the City of Hillsboro. Barrier elements shall be connected in such a manner that creates an appearance that the sidewalk café is located within an enclosed area. The barrier element should be designed to allow for it to be closed off from the public when not in use.

The Common Council may approve or deny the permit application, or may approve the application subject to additional conditions to address any concerns or issues the Council deems necessary to ensure the above criteria will be satisfied and for general public health, welfare, safety, and good order of the City

- (h) **Permit Regulations.** If a sidewalk use permit is granted, the permit holder must abide by the following regulations. Failure to comply with these regulations may be grounds for suspension, non-renewal, or revocation of the sidewalk use permit.
  - (1) **Alcohol Consumption.** A permittee may not sell or serve alcohol beverages to a sidewalk café unless the permit holder complies with all the requirements for obtaining an outdoor consumption permit, as described in Section 7.2.19, and the sidewalk café is listed on the alcohol beverage license application as being a part of the licensed premises.
  - (2) **Insurance Requirement and Indemnification.** No sidewalk use permit shall be issued unless the applicant furnishes to the City Clerk evidence of public liability insurance. As a condition of the permit, the permit holder indemnifies the City, its officers, and its employees from any liability or damages arising from the use of the sidewalk, including costs and reasonably attorney fees, and the City, its officers, and its employees shall not be responsible for any furniture, equipment, or merchandise that may be relocated, stolen, or damaged.
  - (3) **Permit Duration.** Each permit shall be effective for a seven-month period commencing April 1 and ending October 31 of each year. The sidewalk shall be completely clear of all furniture, equipment, and merchandise from November 1<sup>st</sup> to March 31<sup>st</sup>.
  - (4) **Permit Display.** A copy of the site plan, as approved in conjunction with the sidewalk use permit shall be maintained on the permit holder's premise and shall be available for inspection by city personnel at all times.
- (i) **Temporary Removal.** The permit holder's use of the public right-of-way as a sidewalk café or merchandise display area shall not be an exclusive use. All public improvements, or any public initiated maintenance procedures, shall take precedence over said use of the public right-of-way at all times. The City Administrator, Chief of Police, Director of Public Works or their designee may temporarily order the removal of the sidewalk café/merchandise display area for special events including, but not limited to, parades, sponsored runs or walks, maintenance, or for public health or safety concerns.
- (j) **Revocation or Suspension.** Failure to comply with any of the provisions of this Section may be grounds for denial, suspension, non-renewal, or revocation of the permits issued

pursuant to this Section. The permit may be revoked at any time for any reason in the sole discretion of the Common Council.

- (k) **Fee.** The fee for a Sidewalk Use Permit shall be set annually by the Common Council.

## Title 6 - Chapter 3

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### Driveways

#### Section 6.3.1 Driveway Permit Required.

- (a) **Purpose.** For the safety of the general public, the City of Hillsboro shall determine the location, size, construction and number of access points to public roadways within the City limits. It is the City's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
- (b) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person shall construct or maintain a driveway across any sidewalk or curbing without first obtaining a driveway permit from the City Administrator. For bond and insurance requirements, see provisions of Section 6.2.4(g) and (h).
- (c) **Application.**
  - (1) Application for such permit shall be made to the City Clerk for referral to the City Administrator on a form provided by the City and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered or enlarged lying within the dedicated portion of the public street, the dimensions thereof and a statement of the materials proposed to be used.
  - (2) The applicant shall pay a fee to be determined by resolution of the City Council and amended from time to time. Upon receipt of the application and the fee if required, unless the proposed private driveway is a part of construction for a building or other structure for which a building permit has been applied for, in which case no additional fee is required, the City Administrator shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable City ordinance.
  - (3) All applications for permits shall be made on a form prescribed by the City Administrator and be accompanied by a sketch in duplicate showing exact location of any naming:
    - a. Driveway and approaches.
    - b. Property lines.
    - c. Right-of-way lines.
    - d. Intersecting roads, streets or roadways within three hundred (300) feet.
    - e. Width of right-of-way.
    - f. Width and type of road surface.
    - g. Distance from right-of-way line to gasoline pumps and other structures on the site.

- h. Type of surface and width of driveways and approaches.
  - i. Proposed turning radii.
  - j. Other pertinent information as may be required.
- (d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:
  - (1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his/her property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the City street, or for any other purpose.
  - (2) The City, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the City street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damage or destruction of such private roadway.
  - (3) The permittee, his/her successors or assigns, agrees to indemnify and hold harmless the City of Hillsboro, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
  - (4) The City does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the City street.

## **Section 6.3.2 Driveway Location, Design and Construction Requirements.**

- (a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:
  - (1) **General Design.** Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission from the City Administrator, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.
  - (2) **Number.** The number of driveways to serve an individual property fronting on a street shall be one (1), except where deemed necessary and feasible by the Common Council for reasonable and adequate service to the property, considering the safety, convenience and utility of the street.

- (3) **Island Area.** The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (a)(6).
- (4) **Drainage.** The surface of the driveway connecting with street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed. No driveway apron shall extend out into the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right-of-way.
- (5) **Reconstruction of Sidewalks and Curb and Gutter.** When the construction of a driveway requires the removal of a curb or gutter the new connections shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway construction shall include the replacement of such sidewalk areas which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk. All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6.2.2 of this Code insofar as such requirements are applicable, including thickness requirements. Standard thickness of residential driveway approaches will be six (6) inches thick.
- (6) **Restricted Areas.** The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
  - a. The filling or draining shall be to grades approved by the City Administrator and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.
  - b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate manholes adequate for cleanout purposes may be required where the total culvert length is excessive.
  - c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the City Administrator.
- (7) **Relocation of Utilities.** Any costs of relocating utilities shall be the responsibility of the property owner with approval of the City Administrator necessary before any utility may be relocated and the driveway installed.
- (8) **Construction Across Sidewalks.** All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for



- sidewalk construction in Section 6.2.2 of this Code insofar as such requirements are applicable, including thickness requirements.
- (9) **Surfacing.** New driveways shall be hardsurfaced within one (1) year of driveway permit issuance.
  - (10) **Variations.** Any of the above requirements may be varied by the Common Council in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.
- (b) **Special Requirements for Commercial and Industrial Driveways.** The following regulations are applicable to driveways serving commercial or industrial establishments:
- (1) **Width of Drive.** The maximum permitted width of a commercial or industrial driveway approach shall be thirty-five (35) feet at the curb line, except as increased by permissible radii. In instances where the unique nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Common Council in its discretion may permit a driveway of additional width.
  - (2) **Angular Placement of Driveway.** The angle between the center line of the driveway and the curb line shall not be less than forty-five degrees (45°).
  - (3) **Island Areas.** Where the public sidewalk is adjacent to the curb, an island of a minimum length of six (6) feet measured along the curb line shall be placed between each entrance to a City street. The curb shall be left intact for the length of this island. Where the public sidewalk is remote from the curb, an island of a minimum length of ten (10) feet measured along the right-of-way line shall be maintained along each entrance to the City street. All flares shall be tangent to the curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his/her property.
- (c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:
- (1) **Width.** Unless special permission is first received from the Common Council, a residential single-type driveway shall be no greater than twenty-four (24) feet wide at the outer or street edge of the sidewalk; residential double-type driveways shall be no greater than twenty-four (24) feet wide at the curb line and eighteen (18) feet wide at the outer or street edge of the sidewalk.
  - (2) **Angular Placement.** The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.
- (d) **Appeal from Permit Refusal.** Any person feeling himself aggrieved by the refusal of the City Administrator to issue a permit for a private driveway may appeal such refusal to the Common Council within twenty (20) days after such refusal to issue such permit is made.
- (e) **Prohibited Driveways.**
- (1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the City of Hillsboro except as permitted by this Section. As used herein the word "structure" includes private driveways, a portion of which

extends into any public road, highway or street, and which is in non-conformance with this Chapter.

- (2) No driveway shall be closer than thirty-five (35) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the City for effective traffic control or for highway signs or signals.
- (3) The grade of that portion of any private driveway or pedestrian path located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.
- (4) No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into any gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadside areas, or with any existing structure on the right-of-way.
- (5) No portion of any curb, parapet or retaining wall, rising above the grade of the driveway, erected by the owner of the premises involved shall extend beyond the culvert spanning the water course located in such public way.

(f) **Culvert Construction Standards.**

- (1) **Size.** Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than twelve (12) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed of galvanized steel or reinforced concrete, and shall be of new manufacture, unless specifically excepted by the City Administrator.
- (2) **Gauge.** The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

<b>Pipe Diameter</b>	<b>Gauge</b>
15 to 24 inch	16
30 to 36 inch	14
42 to 54 inch	12
60 to 72 inch	10
78 to 84 inch	8

The class of reinforced concrete pipe shall be in accordance with the following:

<b>Height of Cover (in feet)</b>	<b>Class of Pipe</b>
0-2	IV
2-3	III
3-6	II

- (3) **Drainage.** The culverts shall be placed in the ditchline at elevations that will assure proper drainage.

- (4) **Endwalls.** Culverts shall be provided with a concrete or metal apron endwalls as directed by the City Administrator.
- (5) **Backfill Material.** Material used for backfill shall be of a quantity acceptable to the City Administrator and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.
- (6) **Erosion Control.** Erosion control measures shall be implemented as necessary to control erosion, or as directed by the City Administrator.
- (7) **Distance.** The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled pursuant to Subsection (a)(6).
- (8) **Cost.** The property owner shall install the culvert and be responsible for the cost thereof. The property owner shall keep his culverts unobstructed and clean.
- (9) **Appeal.** Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the City Clerk, who shall place the matter as an agenda item for the Common Council's next meeting. The Common Council may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The City Administrator may be asked to render an opinion on the request.

# Title 6 - Chapter 4

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## Trees and Shrubs

### Section 6.4.1 Statement of Policy and Applicability of Chapter.

- (a) **Intent and Purpose.** It is the policy of the City of Hillsboro to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the City to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the City; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrubs both public and private within the City against the spread of disease, insects or pests.
- (b) **Power to Regulate Trees and Shrubs.**
  - (1) The Common Council has empowered the City Forester to plant, transplant, remove, trim, treat and otherwise care for and protect all trees, shrubs and plants on all public lands not specifically delegated to other City boards, all to insure public safety and to preserve and enhance the beauty of such public lands.
  - (2) Public lands under the jurisdiction of the City Forester includes but is not limited to all lands within the lines of all public streets and alleys in the City, more specifically the terrace strip between the lot line and curb or improved portion of any public street or alley.
  - (3) The Common Council is empowered to require landowners to remove, trim or treat specified trees, shrubs or plants under certain conditions and to prohibit the planting of certain trees or tree species, shrubs or plants on private lands within the City of Hillsboro.
- (c) **Application.** The provisions of this Chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

## Section 6.4.2 Definitions.

Whenever the following words or terms are used in this Chapter, they shall be construed to have the following meanings:

- (a) **Person.** Person, firm, association or corporation.
- (b) **Public Areas.** Includes all public parks and other lands owned, controlled or leased by the City except the terrace areas.
- (c) **Public Trees and Shrubs.** All trees and shrubs located or to be planted in or upon public areas.
- (d) **Public Nuisance.** Any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property, including but not limited to:
  - (1) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.
  - (2) Any deleterious or fatal tree disease.
  - (3) Any tree or part thereof which is infected by any insect or larvae known to be deleterious or fatal to trees.
  - (4) Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the terrace strip between curb and lot line.
- (e) **Public Property.** Property owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.
- (f) **Boulevard or Terrace Areas.** The land between the normal location of the street curbing and sidewalk. Where there is no curb and gutter, the area four feet from the curb line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace." Where there are no sidewalks, the area four (4) feet from the curb shall be deemed boulevard areas under this Chapter.
- (g) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.
- (h) **Shrubs.** Any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.
- (i) **Tree.** Any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.
- (j) **Evergreen Tree.** Any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.

- (k) **City Forester.** The Common Council shall designate a City Forester, or assign such duties to a City employee.

### **Section 6.4.3 Authority of City Forester to Enter Private Premises.**

The City Forester or his/her authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Sec. 66.0119, Wis. Stats.

### **Section 6.4.4 Interference With the City Forester Prohibited.**

No person shall interfere with the City Forester, or his/her authorized representative, while they are engaged in carrying out any work or activities authorized by this Chapter.

### **Section 6.4.5 Abatement of Tree Disease Nuisances.**

- (a) **Tree Diseases a Public Nuisance.** Whereas the Common Council has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is threatened by fatal diseases, the Common Council hereby declares its intention to control and prevent the spread of such disease and hereby declare the insect pests and vectors which carry such diseases to be public nuisances.
- (b) **Inspection.**
  - (1) The City Forester shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon.
  - (2) Whenever necessary to determine the existence of a public nuisance in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the City Forester which shall forward them to an appropriate laboratory for analysis to determine the presence of such nuisances.
  - (3) The City Forester and/or his/her agents shall have authority to enter upon private premises for the purpose of carrying out any of the provisions of this Section.

(c) **Abatement of Nuisances.**

- (1) The City Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this Section by spraying, removal, burning or by other means which he/she determines to be necessary to prevent as fully as possible the spread of any and all deleterious tree diseases or the insect pests or vectors known to carry such diseases.
- (2) Whenever the City Forester, after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the City, he/she shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible any or all deleterious tree diseases, insect pests, or vectors known to carry any deleterious tree disease.
- (3) When the City Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, he/she shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he/she can be found, or upon the occupant thereof, a written notice of the existence of such nuisance, and of a time and place for a hearing before the City Forester, not less than ten (10) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the City, the City Forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the City.
- (4) If, after hearing held pursuant to this Subsection, it shall be determined by the City Forester that a public nuisance exists, he/she shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing, the City Forester shall proceed to abate the nuisance, and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this Section. The City Forester may extend the time allowed the property owner for abatement work but not to exceed ten (10) additional days.

(d) **Spraying.**

- (1) Whenever the City Forester shall determine that any tree or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors elm bark beetles, the City Forester may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed with an effective disease destroying concentrate or other insecticide.
- (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the Forester shall cause to be given advance public notice of such operations by newspaper, public service announcements or other effective means and shall also cause the posting of

appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying.

- (3) When appropriate warning notices and temporary "no parking" notices have been given and posted, the City shall not allow any claim for damages to any vehicle caused by such spraying operations.
- (4) When trees on private property are to be sprayed, the Forester shall notify the owner of such property and proceed in accordance with the requirements of Subsection (c)(3).

## **Section 6.4.6 Planting of Trees and Shrubs.**

- (a) **Responsibility.** The size and genus, species and variety of trees and shrubs to be planted in terraces, tree banks and boulevards shall be determined by the City Forester. All planting, maintenance, trimming, and/or removal of trees in terraces shall be conducted by the City Forester and/or his/her agent.
- (b) **Tree Sizes.** The City Forester shall plant only species desirable for planting in boulevards according to their normal mature height in addition to those specified in Subsection (e) below:
  - (1) Large trees: Over forty (40) feet;
  - (2) Medium trees: Twenty-five (25) to forty (40) feet; and
  - (3) Small trees: Fifteen (15) to twenty-five (25) feet.
- (c) **Planting; Size.**
  - (1) All large or medium trees, when planted, shall be at least eight (8) feet high and have a minimum trunk diameter of one and one-quarter (1-1/4) inches at a point six (6) inches above the ground.
  - (2) All small trees, when planted, shall be least five (5) feet high and have five (5) or more branches.
  - (3) The tree shall be planted in a well prepared hole at the same depth as it was originally growing. All trees less than twelve (12) feet high shall be staked. All trees twelve (12) feet or more in height shall be supported by guy wires in such a way as not to injure the bark. The support shall be removed after a year.
  - (4) The tree shall be kept well watered and mulched or cultivated in a two (2) foot diameter around its base to conserve moisture and as a protection from lawn mower damage.
- (d) **Location.**
  - (1) There shall be a distance of forty (40) to fifty (50) feet between terrace area trees depending upon the size of tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than three (3) feet wide, planting will not be permitted.
  - (2) Small sized trees shall be planted at least five (5) feet from driveways and large or medium sized trees shall be planted at least fifteen (15) feet from driveways.



- (3) Evergreen trees or shrubs shall not be planted in a terrace area.
- (4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of eight (8) inches in height above the top of the nearest curb.
- (5) Trees may not be planted in the terrace closer than:
  - a. Twenty (20) feet to a utility or street lighting pole.
  - b. Eight (8) feet to a fire hydrant, water stop box, or gas shut-off. If possible, allow more distance than eight (8) feet.
  - c. Twenty-five (25) feet to the intersection of two (2) streets from either corner measured on the property line.
- (6) New street trees shall not be planted over an existing tree stump within two (2) years of removal unless the stump is removed to a depth of four (4) feet.
- (e) **Permitted Species.** Only trees from the following approved listing shall be planted in a public terrace strip (between curb and sidewalk). Trees are listed by their commercial name and grouped by suitability for various terrace strip widths. The mature height is given following the name so that consideration can be given in cases where overhead wires are present:

**4 Feet +**

Globe Norway Maple	16 feet
Almira Norway Maple	16 feet
Amur Maackia	20 feet
Japanese Tree Lilac	20 feet
Anise Magnolia	20 feet
Callery Pear	20 feet
Toba Hawthorne	20 feet
Lavalle Hawthorne	20 feet
Washington Hawthorne	20 feet
Rancho Sargent Cherry	25 feet
Hop Hornbeam	25 feet
Olmsted Columnar Norway Maple	30 feet
Mountain Ash	30 feet
Scanlon Red Maple	35 feet

**6 Feet +**

Manchurian Bird-cherry	20 feet
Frau Louise Dittman Crabapple	20 feet
Flame Crabapple	25 feet
Double Flowered Mazzard Cherry	30 feet
Sargent Cherry	30 feet
Mongolian Linden	30 feet

Wineleaf Sycamore Maple	30 feet
Tilford Red Maple	35 feet
Littleleaf Linden	40 feet
Amur Corktree	45 feet
Chinese Pearleaf Crabapple	20 feet
Ruby Red Horsechestnut	25 feet
Seneca Sugar Maple	25 feet
Rancho Littleleaf Linden	25 feet
Golden-Leaf Sycamore Maple	25 feet
Pyramidal Sycamore Maple	25 feet
Globe Blue Ash	25 feet
Pyramidal European Ash	30 feet
Manchurian Ash	30 feet
Cleveland Norway Maple	30 feet
Schwedler Norway Maple	30 feet
Pyramidal European Hornbeam	35 feet
Columnar Sugar Maple	45 feet

**8 Feet +**

Kobus Magnolia	20 feet
Dolgo Crabapple	30 feet
Redbug Maple	45 feet

**10 Feet +**

Liset Crabapple	20 feet
Shakespear Crabapple	20 feet

- (f) **Certain Species Restricted.** No person shall plant within the City of Hillsboro any female tree of the species *Populus Deltoidea*, commonly called the "Cottonwood," or any tree commonly called the seed-bearing Box Elder or *Acer Negundo*, which may now or hereafter become infested with Box Elder bugs, and such trees are hereby declared a nuisance. Any person having any such trees on his premises shall cause the same to be removed.
- (g) **Unlawfully Planted Trees.** Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the City Forester may be removed. The City Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the City may remove such trees, plants or shrubs and assess the costs thereof to the owner.

(h) **Who May Plant, Maintain, or Remove Trees.**

- (1) **City Forester.** No person, except the City Forester and/or his/her agent, shall plant, transplant, move, spray, brace, trim, prune, cut above or below ground, disturb, alter or do surgery on a public tree or shrub in the City, or cause such act to be done by others.
- (2) **Exceptions.** Residents may be allowed to cultivate, fertilize, perform minor cutting or pruning or watering of public trees or shrubs, after obtaining permission from the City Forester to do so.

## **Section 6.4.7 Trimming.**

- (a) Any person growing a tree, plant or shrub on any private property abutting on public streets or public places shall:
  - (1) Trim them so as not to be a hazard to persons using the streets or to interfere with the proper lighting of the streets.
  - (2) Treat or remove any tree, plant or shrub which the City Forester shall determine is diseased or insect-ridden or a hazard to persons using the streets.
  - (3) Remove and refrain from planting any tree, plant or shrub designated by the Wisconsin Department of Agriculture, Trade and Consumer Protection and published in its regulations to be a host or carrier of a dangerous plant disease or insect pest.
- (b) Trees and shrubs standing in or upon any terrace, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The City Forester may waive the provisions of this Section for newly planted trees if he/she determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.
- (c) The necessity of the pruning may be determined by the City Forester. Trimming activity, and the cost thereof, shall be the responsibility of the City within Public, Boulevard, or Terrace areas. Pruning or trimming costs associated with trees growing on private property shall be the responsibility of the property owner.
- (d) Clearance from sidewalk to lower branches shall not be less than eight (8) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten (10) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.

## **Section 6.4.8 Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs.**

- (a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- (c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the City Forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the City Forester shall order City employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which such tree or shrub stands.
- (d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the City Forester as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1.1.7 of this Code of Ordinances.

*Cross-Reference:* Section 13.1.81

## **Section 6.4.9 Removal of Trees and Stumps.**

- (a) **Dangerous, Obstructive and Infected Trees.**
  - (1) Any tree or part thereof growing upon private premises, whether alive or dead, which the City Forester shall find to be infected, hazardous or a nuisance so as to endanger the general public or other trees or shrubs growing within the City, or to be injurious to sewers, sidewalks or other public improvements, shall be removed, trimmed or treated by the owner of the property upon which such tree or part thereof is located as directed by the City Forester. The City Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less

than twenty-four (24) hours nor more than fourteen (14) days as determined by the City Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the City Forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the City Clerk, who shall thereupon enter such cost as a special charge against the property.

- (2) All trees or shrubbery growing upon public property, including boulevards, within the City shall be maintained, trimmed, cut or removed by the City Forester, and/or his/her agent, according to best forestry practices.
- (b) **Removal Standards.** In cutting down trees located in public and terrace areas, the tree will be removed by the City Forester, and/or his/her agents, according to best forestry practices. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased.
- (c) **Private Removal.** No person, firm, organization or corporation shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place. When the removal, trimming, or cutting of any such tree or shrub is necessary, as determined by the City Forester for any reason, the City Forester and/or his/her agent will perform, or cause to be performed, whatever removing, cutting, or trimming that he/she shall determine is necessary.

## **Section 6.4.10 Prohibited Acts.**

- (a) **Damage to Public Trees.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permission from the City Forester in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:
  - (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
  - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
  - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.
  - (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
  - (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
  - (6) Cause or encourage any fire or burning near or around any tree.

- (7) To place or maintain upon the ground any stone, brick, cement or other impervious substance in such manner as may obstruct the free access of air or water to the roots of any tree, shrub or plant in or upon any public way or public place.
- (b) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without written permission from the City Forester.
- (c) **Interference With Forester.** No person shall:
  - (1) Interfere with or prevent any acts of the City Forester or his/her agents while it is engaged in the performance of duties imposed by this Section.
  - (2) Refuse to permit the City Forester or his/her representative to enter upon his/her premises to exercise the duties imposed by this Section.
- (d) **Refusal to Abate Nuisance.** No person shall permit any public nuisance to remain on any premises owned or controlled by him/her when ordered by the City Forester to abate such nuisance.

### **Section 6.4.11 Appeal from Determinations or Orders.**

Any person who receives a determination or order under this Chapter from the City Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Title 4 of this Code of Ordinances, to the Common Council within seven (7) days of receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Common Council shall, by letter, notify the party appealing the order or determination of its decision within ten (10) days after the hearing has been concluded. The Council shall file its written decision with the City Clerk.

### **Section 6.4.12 Inspection of Trees.**

An annual inspection by competent personnel may be conducted of all trees within the terrace strip along every public way within the City, and also those trees on private lands within falling distance of any public way or public place.

### **Section 6.4.13      Adoption of State Statutes.**

Secs. 27.09 and 86.03, Wis. Stats., are hereby adopted and incorporated herein by reference.

*State Law Reference:* Secs. 27.09 and 86.03, Wis. Stats.

# TITLE 7

## Licensing and Regulation

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# Title 7 - Chapter 1

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## Licensing and Regulation

### Section 7.1.1 Dog Licenses Required; Definitions.

- (a) **License Required.** It shall be unlawful for any person in the City of Hillsboro to own, harbor or keep any dog for more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.
- (b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require, the following definitions shall be applicable:
  - (1) **Owner.** Any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.
  - (2) **At Large.** To be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
  - (3) **Dog.** Any canine, regardless of age or sex.
  - (4) **Cat.** Any feline, regardless of age or sex.
  - (5) **Neutered.** A dog or cat having nonfunctional reproductive organs.
  - (6) **Animal.** Mammals, reptiles and birds.
  - (7) **Cruel.** Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
  - (8) **Law Enforcement Officer.** Has that meaning as appears in Sec. 967.02(5), Wis. Stats.
  - (9) **Farm Animal.** Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
  - (10) **Pet.** An animal kept and treated as a pet.
  - (11) **Residential Lot.** A parcel zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted and under common ownership. For the purpose of this Chapter, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.
  - (12) **Restrain.** Includes notifying the dog or cat's owner or an officer and requesting either the owner or officer to capture and restrain the dog or cat, or capturing and

restraining the dog or cat, and killing the dog or cat if the circumstances require immediate action.

- (13) **Untagged.** Not having a valid license tag attached to a collar kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

*State Law Reference:* Secs. 174.05 through 174.10, Wis. Stats.

## Section 7.1.2 Rabies Vaccination Required for License.

- (a) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the City of Hillsboro after the dog has reached four (4) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the City unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.
- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the City stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the City of Hillsboro.
- (c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.
- (d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (a).

- (f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

### **Section 7.1.3 Issuance of Dog and Kennel Licenses.**

(a) **Dog Licenses.**

- (1) It shall be unlawful for any person in the City of Hillsboro to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wis. Stats., relating to the listing, licensing and tagging of the same.
- (2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.
- (3) Dog owners shall pay the City Clerk annually a sum that is to be set by resolution of the Common Council for each neutered male dog and spayed female dog, and also a different fee for each unneutered male or unsprayed female dog.
- (4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7.1.2 of this Chapter, the City Clerk shall complete and issue to the owner a license for such dog containing all information required by state law. The City Clerk shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog or cat for which the license is issued at all times, except as provided in Section 7.1.2(e).
- (6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.
- (7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the City Clerk upon application therefor.

(b) **Cat Licenses.**

- (1) **License Required.** A cat license is necessary for the keeping of any cat over five (5) months of age.
- (2) **Procedure.** Except as otherwise provided specifically below, the rules regarding the payment of a cat license tax and the obtaining of the cat license shall be the same rules applicable to dogs under Secs. 174.05 (1), (4) and (5), Wis. Stats., including any future changes or amendments thereto.
- (3) **Tax.** The cat license tax, including any fee for late applications, shall be set by resolution of the Common Council.
- (4) **Licenses.** Upon payment of the required cat license tax and any late fees, and upon presentation of evidence that the cat is currently immunized against rabies, the Clerk shall complete and issue to the owner a license for the cat on forms provided by the City. The Clerk shall keep a duplicate copy of the license on file.
- (5) **Tag.** After issuing the license, the Clerk shall deliver to the owner a tag of durable material. The owner shall securely attach the tag to a collar, which shall be kept on the cat for which the license is used at all times, but this requirement does not apply to a cat during competition, to a cat securely confined indoors, or to a cat securely confined to a caged area. If a tag is lost, a new tag shall be furnished to the owner by the Clerk upon the payment of a fee set by resolution of the Common Council.

(c) **Kennel Licenses.**

- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax as set by the City Council from time to time for a kennel of twelve (12) or fewer dogs and an additional amount as set by the City Council for each dog in excess of twelve (12). Upon payment of the required kennel license tax and, if required by the Common Council, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the City Clerk shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel. Kennels may only be located in residential areas following a public hearing and approval by the Common Council; the Common Council may attach conditions to such approval as a conditional use under the City's Zoning Code.
- (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken

anywhere outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

- (3) The term “kennel” means any establishment wherein or whereon three (3) or more dogs or cats or a combination of five (5) dogs and cats are kept at one time
- (4) No kennel license shall be issued to the keeper or operator of a kennel who fails to provide proper food and drink and proper shelter for the dogs in said kennel or who neglects or abandons said dogs. Designated officials shall investigate any complaints regarding the failure to maintain proper standards or investigate any kennel premises upon his own initiative. Expressly incorporated by reference in this Section as minimum standards for kennel keepers or operator are the relevant provisions of Chapter 948, Wis. Stats.
- (5) A condition of a kennel license shall be that the licensed premises may be entered and inspected at any reasonable hour by appropriate City officials without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this Section. Should any kennel be found to constitute a public nuisance, the license shall be revoked and the nuisance abated pursuant to City ordinances.

*State Law Reference:* Sec. 174.053, Wis. Stats.

#### **Section 7.1.4 Late Fees.**

The City Clerk or City Treasurer shall assess and collect a fee that is to be set by resolution of the City Council from every owner of a dog or cat five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or cat. If the owner failed to obtain a license on or before the dog or cat reached licensable age the same fee shall also be collected. The said late fee shall be charged in addition to the required license fee.

#### **Section 7.1.5 Rabies Quarantine.**

- (a) **Dogs and Cats Confined.** If a district is quarantined for rabies, all dogs and cats within the City shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The City Clerk shall promptly post in at least three (3) public places in the City notices of quarantine.
- (b) **Exemption of Vaccinated Dog or Cat from City Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the City quarantine provisions of

Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.

(c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**

(1) Quarantine or sacrifice of dog or cat. An officer or animal warden shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(2) Sacrifice of other animals. An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

(d) **Quarantine of Animal After Biting Incident.** If a dog or cat has bitten or broken the skin of a person:

(1) The responding law enforcement officer shall complete the Vernon County Bite Order and serve a copy on the owner of the animal if the owner can be located.

(2) The animal must be examined by a veterinarian and then quarantined in an isolation facility for a period of not less than ten (10) days.

(3) The owner (or officer or designee if no owner) must deliver the animal to an isolation facility within twenty-four (24) hours after this Bite Order is issued. The isolation facility may be a veterinarian's office, a humane society shelter, or a public or private pound. The isolation facility may consist of isolating the animal on the premises of the owner following the initial examination by a veterinarian only if the animal has a valid certificate of rabies vaccination. The quarantined dog or cat shall be returned to the veterinarian for one additional examination during the ten (10) day period. The animal shall be examined again on the tenth (10<sup>th</sup>) day following the bite. This means the animal shall be examined by a veterinarian at least three (3) times during the ten (10) day period.

(4) The animal may only be released from quarantine after the veterinarian certifies that the animal has not exhibited any signs of rabies during the ten (10) day period.

(5) If the animal cannot be captured, the officer may kill the animal. This shall be done only as a last resort or if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head. The head shall be removed and the County Nurse's office shall be contacted.

(6) The law enforcement officer shall conduct a normal investigation, including pictures of the bite, witness/victim statements, medical reports, animal description and the apparent physical condition of the animal.

(e) **Wild Animal Biting Incident.** If a wild animal or other animal has bitten or broken the skin of a person, the responding law enforcement officer shall:

(1) Complete the "Vernon County Bite Order" and provide a copy to the owner of the animal if one exists; or

(2) Sacrifice the animal as set out in Subsection (d)(5) above.



- (f) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the City, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.
- (g) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the City, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.
- (h) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

### **Section 7.1.6 Restrictions on Keeping of Dogs, Cats, Fowl and Other Animals.**

- (a) **Nuisance or Dangerous Animals.** It shall be unlawful for any person within the City of Hillsboro to own, harbor or keep any dog, cat or other domestic animal or fowl which:
  - (1) Habitually pursues any vehicle upon any public street, alley or highway in the City.
  - (2) Assaults or attacks any person or destroys property.
  - (3) Is at large within the limits of the City.
  - (4) Repeatedly breaks from leash or enclosure and trespasses or defecates upon property other than that on which the animal is kept.
  - (5) Habitually barks, howls or makes other noise audible beyond the property upon which the animal is kept during any hour of the day or night.
  - (6) Kills, wounds or worries any domestic animal.
  - (7) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
  - (8) In the case of a dog, is unlicensed.
  - (9) Otherwise disturbs the peace and quiet of the City of Hillsboro.

(b) **Vicious Dogs and Animals.**

- (1) No vicious dog shall be allowed off the premises of its owner unless muzzled or on a leash in charge of the owner or a member of the owner's immediate family over sixteen (16) years of age. For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises.
- (2) No person shall harbor or permit to remain on his/her premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.

(c) **Animals Running at Large.**

- (1) No person having in his/her possession or ownership any dog, cat or other domestic animal or fowl shall allow the same to run at large within the City. The owner of any animal, whether licensed or unlicensed, shall keep his/her animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or City Ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer or animal warden.
- (2) An animal shall be deemed to be running at large when it is on any of the public streets, alleys, parks or other public grounds of said City, or any other premises in said City other than the premises of its owner, unless physically restrained by a leash, chain, enclosure, or otherwise under the control of its owner, a servant, agent or a member of his/her family of suitable age and discretion to provide effective physical restraint of the dog, cat or other domestic animal.

(d) **Barking Dogs or Crying Cats.** It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog or cat is considered to be in violation of this Section when complaints are filed with the Police Department pursuant to Subsection (e) below.

(e) **Enforcement.**

- (1) Upon any written complaint to the Police Department, warnings may be issued to the owner of a dog or other animal engaging in the above conduct, that said animal may be in violation of this Section.
- (2) Upon any two (2) written complaints in one (1) year by one (1) or more persons, a citation may be issued to the owner of a dog or other animal engaging in the above conduct, subject to forfeiture as provided in Section 7.1.23.

(f) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.

## Section 7.1.7 Impoundment of Animals.

- (a) **Animal Control Agency.**
  - (1) The City of Hillsboro may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.
  - (2) The City of Hillsboro does hereby delegate to any such animal control agency the authority to act pursuant to the provisions of this Section.
- (b) **Impounding of Animals.** In addition, to any forfeiture penalty hereinafter provided for a violation of this Chapter, a law enforcement or animal control officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of this City, assaults or attacks any person, is at large within the City, habitually barks, cries or howls, kills, wounds or worries any domestic animal, or is infected with rabies or otherwise violates any provision of this Chapter.
- (c) **City Not Liable for Impounding Animals.** The City and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.
- (d) **Cost of Impoundment May be Charged to Owner.** The cost of impounding a dog, cat or other animal by the City shall be imposed as a special charge to the owner, occupant, or the responsible person for the animal in accordance with the procedure of Section 3.2.12, and if the special charge is not paid within the time set forth therein, the special charge shall become a lien on the property against which is it imposed as of the date of delinquency and shall be added to current or next tax roll for collection.

## Section 7.1.8 Duty of Owner in Case of Animal Bite.

- (a) If any animal, for which the owner holds a current rabies certificate, is involved in a bite or a serious scratch incident, the owner shall isolate and confine the animal, under the supervision of a licensed veterinarian for at least ten (10) days from the date of the incident. Supervision of a veterinarian includes at a minimum, examination of the animal, on the first day, on the tenth day, and on one intervening day. If the animal is confined at the residence of the owner, it must not be allowed to come in contact with other animals or people. It cannot be left unattended outside.
- (b) The animal can be taken outside of the residence only to relieve itself, under restraint and under the supervision of an adult.
- (c) Any animal involved in a bite or scratch incident that has not been vaccinated, or has not been re-vaccinated within the prescribed times, must be confirmed at a veterinary hospital, under the supervision of a veterinarian for ten (10) days.

- (d) Under no circumstances can the owner sell, give away, or destroy the animal until it has been released by a licensed veterinarian after the ten (10) day confinement (quarantine) period.

## Section 7.1.9 Pit Bulls and Other Dangerous Animals.

- (a) **Keeping of Animals Prohibited.** It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Hillsboro:
- (1) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal including but not limited to non-human primates, raccoons, skunks, foxes and wild and exotic cats.
  - (2) Any animal having poisonous bites.
  - (3) Any pit bull dog provided that pit bull dogs registered with the City on the day this Section becomes effective may be kept within the City subject to the standards and requirements set forth in Subsection (b) of this Section. "Pit bull dog" as that term is used in this Section is defined to mean:
    - a. The Staffordshire bull terrier breed of dog;
    - b. The American pit bull terrier breed of dog;
    - c. The American Staffordshire terrier breed of dog;
    - d. Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, or a combination of any of these breeds.
- (b) **Keeping of Registered Pit Bulls.** The provisions of Subsection (a) are not applicable to owners, keepers or harbors of pit bull dogs registered with the City of Hillsboro keeping, owning or harboring of such dogs is however subject to the following conditions:
- (1) **Leash and Muzzle.** No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
  - (2) **Confinement.** All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel except when leashed and muzzled as provided in Subsection (b)(1). All pens or kennels shall comply with all zoning and building regulations of the City and shall be kept in a clean and sanitary condition.
  - (3) **Confinement Indoors.** No pit bull dog may be kept on a porch, patio or in any part of a hours or structure that would allow the dog to exit such building on its own volition.

- (4) **Registration.** All owners, keepers or harborers of pit bull dogs shall within thirty (30) days after the effective date of this Section register said dog with the City by filing with the City Clerk two (2) color photographs of the dog clearly showing the color and approximate size of the dog. A fee for registration shall be set by resolution of the City Council and amended from time to time.
- (5) **Failure to Comply.** It shall be unlawful for the owner, keeper or harborer of a pit bull dog registered with the City to fail to comply with the requirements and conditions set forth in this Section.

### **Section 7.1.10 Animal Feces.**

- (a) **Removal of Fecal Matter.** The owner or person in charge of any dog, cat, or other animal shall not permit solid fecal matter of such animal to deposit on any street, alley or other public or private property, unless such matter is immediately removed therefrom by said owner or person in charge. This Section shall not apply to a person who is visually or physically handicapped.
- (b) **Accumulation of Fecal Matter Prohibited on Private Yards.** The owner or person in charge of the animal must also prevent accumulation of animal waste on his own property by regularly patrolling and properly disposing of the fecal matter.

### **Section 7.1.11 Injury to Property by Animals.**

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate thereon.

### **Section 7.1.12 Animals in Parks.**

- (a) No unleashed dog, cat or other animal shall be allowed in any City park.

### **Section 7.1.13 Prohibited and Protected Animals, Fowl, Reptiles and Insects; Farm Animals.**

- (a) **Protected Animals.**
  - (1) **Possession and Sale of Protected Animals.** It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt

- to buy, within the City any of the following animals, alive or dead, or any part or product thereof: all wild cats of the family felidae, polar bear (*thalarctos maritimus*), red wolf (*canis niger*), vicuna (*vicugna vicugna*), gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelononia mydas*), Mexican ridley turtle (*lepidochelys kempii*).
- (2) ***Compliance with Federal Regulations.*** It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).
- (3) ***Regulating the Importation of Certain Birds.*** No person, firm or corporation shall import or cause to be imported into this City any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.
- (b) **Exceptions.** The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus.
- (c) **Wild Animals; Prohibition on Keeping.** It shall be unlawful for any person to keep, maintain or have in his possession or under his control within the City any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the City any of the following animals, reptiles or insects:
- (1) All poisonous animals and reptiles including rear-fang snakes.
  - (2) Apes: Chimpanzees (*Pan*); gibbons (*Hylobates*); gorillas (*Gorilla*); orangutans (*Pongo*); and siamangs (*Symphalangus*).
  - (3) Baboons (*Papoi*, *Mandrillus*).
  - (4) Bears (*Ursidae*).
  - (5) Bison (*Bison*).
  - (6) Cheetahs (*Acinonyx jubatus*).
  - (7) Crocodilians (*Crocodylia*), thirty (30) inches in length or more.
  - (8) Constrictor snakes.
  - (9) Coyotes (*Canis latrans*).
  - (10) Deer (*Cervidae*); includes all members of the deer family; for example, whitetailed deer, elk, antelope and moose.
  - (11) Elephants (*Elephas* and *Loxodonta*).
  - (12) Game cocks and other fighting birds.

- (13) Hippopotami (Hippopotamidae).
  - (14) Hyenas (Hyaenidae).
  - (15) Jaguars (*Panthera onca*).
  - (16) Leopards (*Panthera pardus*).
  - (17) Lions (*Panthera leo*).
  - (18) Lynxes (*Lynx*).
  - (19) Monkeys, old world (Cercopithecidae).
  - (20) Ostriches (*Struthio*).
  - (21) Pumas (*Felis concolor*); also known as cougars, mountain lions and panthers
  - (22) Rhinoceroses (*Rhinocero tidae*).
  - (23) Sharks (class Chondrichthyes).
  - (24) Snow leopards (*Panthera uncia*).
  - (25) Tigers (*Panthera tigris*).
  - (26) Wolves (*Canis lupus*).
  - (27) Poisonous insects.
- (d) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of. a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; licensed pet shops; zoological gardens; if:
- (1) Their location conforms to the provisions of the zoning ordinance of the City.
  - (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
  - (3) Animals are maintained in quarters so constructed as to prevent their escape.
  - (4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.
- (e) **Farm Animals; Miniature Pigs.** Except as provided in Section 7.1.22 regarding miniature pigs and on properties zoned in an agricultural classification, no person shall own, keep, harbor or board any cattle, horses, ponies, swine, goats, sheep, fowl [more than two (2)] or rabbits [more than two (2)].

### **Section 7.1.14 Sale of Rabbits, Chicks or Artificially Colored Animals.**

- (a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.
- (b) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.

- (1) No retailer, as defined in Sec. 100.30(2)(e), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.

*State Law Reference:* Sec. 951.11, Wis. Stats.

### **Section 7.1.15 Providing Proper Food and Drink to Confined Animals.**

- (a) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.
- (b) The food shall be sufficient to maintain all animals in good health.
- (c) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

*State Law Reference:* Sec. 951.13, Wis. Stats.

### **Section 7.1.16 Providing Proper Shelter.**

- (a) **Proper Shelter:** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
  - (1) **Ambient temperatures.** The ambient temperature shall be compatible with the health of the animal.
  - (2) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
  - (1) **Shelter from sunlight.** When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.
  - (2) **Shelter from inclement weather.**
    - a. **Animals generally.** Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.



- b. **Dogs.** If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
  - (1) **Structural strength.** The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
  - (2) **Space requirements.** Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

*State Law Reference:* Sec. 951.14, Wis. Stats.

## **Section 7.1.17      Neglected or Abandoned Animals.**

- (a) **Neglected or Abandoned Animals.**
  - (1) No person may abandon any animal.
  - (2) Any law enforcement or animal control officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.
  - (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
  - (4) Whenever, in the opinion of any such officer, an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
  - (5) Sec. 173.10, Wis. Stats., Investigation of Cruelty Complaints, and Sec. 173.24, Wis. Stats., Expenses of Investigation, are hereby adopted by reference and made a part of this Chapter.
- (b) **Injured Animals.** No person who owns, harbors, or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or

injured. In the event the owner of such animal cannot be located, the City or any animal control agency with whom the City has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

*State Law Reference:* Secs. 951.15, 173.10 and 173.24, Wis. Stats.

## **Section 7.1.18      Cruelty to Animals and Birds Prohibited.**

- (a) **Acts of Cruelty Prohibited.** No person except a law enforcement or animal control officer in the pursuit of his/her duties shall, within the City, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.
- (b) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a City street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.
- (c) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Sec. 961.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.
- (d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.
- (e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

## **Section 7.1.19      Limitation on Number of Dogs and Cats.**

- (a) **Purpose.** The keeping of a large number of dogs and cats within the City of Hillsboro for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs and cats is, therefore, declared a public nuisance.

(b) **Number Limited.**

- (1) No person or family shall own, harbor or keep in its possession more than three (3) dogs or three (3) cats, or more than five (5) total dogs and cats, in any residential unit without the prior issuance of a kennel license by the Common Council except that a litter of pups or kittens or a portion of a litter may be kept for not more than ten (10) weeks from birth.
- (2) The above requirement may be waived with the approval of the Common Council when a kennel license has been issued by the City pursuant to Section 7.1.3(b). Such application for waiver shall first be made to the City Clerk.

## **Section 7.1.20 Trapping of Animals.**

- (a) In the interest of public health and safety, it shall be unlawful for any person, in or on City owned land within the City of Hillsboro to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except by use of live box-type traps only. Live box-type traps shall be defined as those traps which capture and hold an animal in an alive and unharmed condition.
- (b) This Section shall prohibit the use of all traps other than live traps as described above, including, but not limited to, traps commonly known as leg traps, pan-type traps or other traps designed to kill, wound or close upon a portion of the body of an animal.
- (c) All such traps set, placed or tended shall comply with Chapter 29, Wis. Stats., as they relate to trapping.
- (d) Nothing in this Section shall prohibit or hinder the City of Hillsboro or its employees or agents from performing their official duties.

## **Section 7.1.21 Keeping of Bees.**

- (a) It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises within the corporate limits of the City.

## **Section 7.1.22 Vietnamese Potbellied Pigs.**

- (a) **Definitions.** As used in this Section, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
  - (1) "Vietnamese Potbellied Pig" shall mean a purebred Vietnamese Potbellied Pig registered through a North American Vietnamese Potbellied Pig Registry, which does not exceed one hundred (100) pounds in weight.

- (b) **License Required/Fee.** It is unlawful for any person, party, firm or corporation to keep or maintain within the City of Hillsboro limits a Vietnamese Potbellied Pit without first having obtained a license from the City Clerk and being in compliance with all provisions of this Section. The fee for a license issued hereunder or renewal thereof shall be set by the City Council from time to time. Excepted from the license requirement is any law enforcement agency or agency under contract with the City to care for stray or unwanted animals.
- (c) **License/Application.**
- (1) Any applicant for a license or renewal thereof under this Section shall file with the City Clerk a fully executed application on a form prescribed by the City Clerk, accompanied by the annual license fee.
  - (2) No licenses or renewal thereof shall issue hereunder until:
    - a. A Certificate of Purebred Registration is filed with the City Clerk.
    - b. There has been an inspection by a City law enforcement officer or the Building Inspector of the premises being licensed and a determination by said sanitarian that all requirements of this Section, and other applicable general and zoning ordinances, have been met.
    - c. There is an adequate means of restraining animals from running at large or disturbing the peace.
  - (3) Any license or renewal thereof issued hereunder shall be for a calendar year or portion thereof. Licenses must be renewed each calendar year on or before the 31st day of January. Licenses shall not be assignable or transferable either to another person, party, firm or corporation or for another location.
  - (4) When issued, a license shall be kept upon the licensed premises and exhibited, upon request, to any City personnel requesting to examine it and having authority to enforce this Section.
  - (5) Only one (1) Vietnamese Potbellied Pig may be at any premises.
- (d) **License Requirements.** Licensee shall comply with the following as a condition of obtaining and maintaining a license:
- (1) Animal feces to be collected on a daily basis and stored in a sanitary receptacle. Animals shall not be brought, or permitted to be, on property, public or private, not owned or possessed by the owner or person in charge of the animal, unless such person has in his/her immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person.
  - (2) When sunlight is likely to cause overheating to discomfort, sufficient shade shall be provided to allow an animal kept outdoors to protect itself from the direct rays of the sun.
  - (3) An animal kept outdoors shall be provided with access to shelter to allow it to remain dry during rain or snow. Animals may be kept outdoors only if contained in a fenced enclosure sufficient for purposes of restraint.

- (4) When the atmospheric temperature is less than fifty degrees Fahrenheit (50°F), an animal shall be kept indoors at a temperature no less than fifty degrees Fahrenheit (50°F), except for temporary ventures which do not endanger the animals health.
  - (5) An effective program for the control of insects, ectoparasites, avian and mammalian pests shall be established and maintained where a problem.
  - (6) Animals shall be fed and watered at least once a day, except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food receptacles shall be accessible to the animal and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and kept clean. The food receptacles shall be cleaned daily. Disposable food receptacles may be used, but must be discarded after each feeding. Self feeders may be used for the feeding of dry food and they shall be sanitized as needed, but at least once per week, to prevent molding, deterioration or caking of feed.
  - (7) Animals may not be permitted to exceed one hundred (100) pounds in weight.
  - (8) Animals shall be examined by a veterinarian within a period of sixty (60) days prior to a new license application being filed. The animal may be licensed only upon a written statement from a veterinarian as to:
    - a. The animal's weight.
    - b. The animal has received all recommended vaccinations and boosters.
    - c. The animal is asymptomatic respecting disease or has a disease which is not contagious and is receiving appropriate treatment.
    - d. The animal's tusks, if any, have been removed or trimmed so as not to endanger any person or animal.
    - e. The animal has passed a pseudorabies test administered in accordance with application state regulations.
  - (9) The animal shall not be permitted to run at large. "Run at large" shall mean the presence of an animal which is not on a leash of six (6) feet or less on any public property or thoroughfare or on any private property. An animal may be unleashed on private property, with the permission of the property owner, in a fenced enclosure sufficient for purposes of restraint. Animals which are not leashed in a motor vehicle shall not be deemed to "run at large" if secured in a manner as will prevent their escape therefrom.
  - (10) Animals shall not be kept in a manner as to disturb the peace of the neighborhood or of persons passing to and from upon the streets.
- (e) **Suspension, Revocation or Denial of Renewal of License.** The Chief of Police shall have the right to suspend or revoke any license once granted or deny annual renewal thereof when it appears that any license has violated any of the provisions of this Section, or any ordinance of the City, or law, rule or regulation of the State of Wisconsin, involving cruelty or mistreatment of the animal, or the unlawful possession of the animal. Prior to the suspension or revocation of any license or the denial of an application for a renewal thereof, written notice of the reason for such action shall be given to the

applicant or licensee by the officer. Such notice shall state that the applicant may pursue an appeal to the Common Council by filing a request within ten (10) days of such notice.

## **Section 7.1.23 Penalties.**

- (a) Any person violating Sections 7.1.16, 7.1.17, 7.1.18, 7.1.19, 7.1.20, 7.1.21, or 7.1.22 shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00). This Section shall also permit the City Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Chapter.
- (b) Anyone who violates Sections 7.1.1, 7.1.2, 7.1.3, 7.1.4 and 7.1.5 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for the first offense and not less than One Hundred Dollars (\$100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses.
- (c) An owner who refuses to comply with an order issued under Section 7.1.5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.
- (d) Any person who violates Sections 7.1.6 through 7.1.15 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for the first violation and not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00) for subsequent violations.
- (e) Each day that a violation of this Chapter continues shall be deemed a separate violation. Any dog found to be the subject of a violation of this Section shall be subject to immediate seizure, impoundment and removal from the City by City officials in the event the owner or keeper of the dog fails to remove the dog from the City. In addition to the foregoing penalties, any person who violates this Chapter shall pay all expenses including shelter, food, handling and veterinary care necessitated by the enforcement of this Chapter.

## **Title 7 - Chapter 2**

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### **Article A: Fermented Malt Beverages and Intoxicating Liquor**

#### **Section 7.2.1 State Statutes Adopted.**

The provisions of Chapter 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Chapter in order to secure uniform statewide regulation of alcohol beverage control.

*State Law Reference:* Chapter 125, Wis. Stats.

#### **Section 7.2.2 Definitions.**

As used in this Chapter the terms "Alcoholic Beverages," "Intoxicating Liquors," "Principal Business," "Legal Drinking Age", "Premises," "Sell," "Sold," "Sale," "Restaurant," "Club," "Retailer," "Person," "Fermented Malt Beverages," "Wholesalers," "Retailers," "Operators," and "Non-Intoxicating Beverages" shall have the meaning given them by Chapter 125, Wis. Stats.

#### **Section 7.2.3 License Required.**

No person, firm or corporation shall vend, sell, deal or traffic in or have in his possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto, except as provided by Secs. 125.16, 125.27, 125.28 and 125.51 of the Wis. Stats.

## Section 7.2.4 Classes of Licenses.

- (a) **Retail "Class A" Intoxicating Liquor License.** A retail "Class A" intoxicating liquor license, when issued by the City Clerk under the authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed. Such license shall be issued with an effective date of July 1st, but may be issued by the City prior to that date. The license shall expire on the following June 30th.
- (b) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the City Clerk under authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises. Such license shall be issued with an effective date of July 1st, but may be issued by the City prior to that date. The license shall expire on the following June 30th.
  - (1) The City of Hillsboro has six (6) Retail "Class B" Intoxicating Liquor Licenses.
- (c) **Reserve "Class B" Licenses.** A Reserve "Class B" license means a license that is not granted or issued by the City on December 1, 1997 and that is counted under Sec. 125.51(4)(br), Wis. Stats., which, if granted or issued, authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold, and also authorizes the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time, to be consumed off premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- (d) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the City Clerk under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license shall be issued with an effective date of July 1st, but may be issued by the City prior to that date. The license shall expire on the following June 30th.
- (e) **Class "B" Fermented Malt Beverage Retailer's License.**
  - (1) **License.** A Class "B" fermented malt beverage retailer's license, when issued by the City Clerk under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages. Such license shall be issued with an effective date of July 1st, but may be issued by the City prior to that date. The license shall expire on the following June 30th.



- (2) **Application.** Class "B" licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.
- (f) **Temporary Class "B" Fermented Malt Beverage License.**
- (1) **License.** As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to churches, lodges, that have been in existence for at least six (6) months before the date of application and to posts of veterans organizations authorized the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post. Such license is valid for dates as approved by the Common Council.
- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the City Clerk together with the appropriate license fee for each event for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture as set by the City Council from time to time and will be ineligible to apply for a temporary Class "B" license for one (1) year. The license shall specify the hours and dates of license validity. If the application is for a license to be used in a City park, the applicant shall specify the main point of sale facility.
- (g) **Temporary "Class B" Wine License.**
- (1) **License.** Notwithstanding Sec. 125.68(3), Wis. Stats., temporary "Class B" licenses may be issued to bona fide clubs, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of wine containing not more than six percent (6%) alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under Sec. 125.26(6), Wis. Stats., for the same event.
- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the City Clerk together with the appropriate license fee for each event for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture as set by the City Council from time to time and will be ineligible to apply for a temporary "Class B" wine license for one (1) year. The license shall specify the

hours and dates of license validity. If the application is for a license to be used in a City park, the applicant shall specify the main point of sale facility.

- (h) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the City Clerk under the authority of the Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.
- (i) **Retail "Class C" Licenses.**
  - (1) In this Subsection, "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.
  - (2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
  - (3) A "Class C" license may be issued to a person qualified under Sec. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the City's quota prohibits the City from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation, a foreign limited liability company, or a person acting as agent for or in the employ of another.
  - (4) A "Class C" license shall particularly describe the premises for which it is issued.

*Cross-Reference:* Section 7.2.17.

## Section 7.2.5 License Fees.

There shall be the following classes of licenses which, when issued by the City Clerk under the authority of the Common Council after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7.2.4 of this Code of Ordinances and Chapter 125, Wis. Stats.:

- (a) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be set by the City Council from time to time. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (b) **Class "B" Fermented Malt Beverage License.** The annual fee for this license shall be set by the City Council from time to time. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (c) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be per event and set by the City Council from time to time.

- (d) **Temporary "Class B" Wine License.** The fee for this license shall be per event and set by the City Council from time to time. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.
- (e) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be set by the City Council from time to time.
- (f) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be set by the City Council from time to time. The fee for a license of less than twelve (12) months shall be prorated according to the number of months of fraction thereof for which the license is issued.
- (g) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be set by the City Council from time to time. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license of less than twelve (12) months shall be prorated according to the number of months of fraction thereof for which the license is issued.
- (h) **Reserve "Class B" Intoxicating Liquor License.** The fee for an initial issuance of a Reserve "Class B" license shall be set by the City Council from time to time, except that the fee for the initial issuance of a Reserve "Class B" license to a bona fide club or lodge situated and incorporated in the state for at least six (6) years is the fee established in Section 7.2.5(g) for such a club or lodge. The annual fee for renewal of a Reserve "Class B" license is the fee established in Section 7.2.5(g).
- (i) **"Class B" License for Full-Service Restaurants and Hotels.** The initial annual fee for a "Class B" license for a full-service restaurant that has a seating capacity of three hundred (300) or more persons, or a hotel that has one hundred (100) or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of one hundred fifty (150) or more persons or a banquet room which will accommodate four hundred (400) or more persons, is set by the City Council from time to time. Thereafter, the annual renewal fee is set by the City Council from time to time.
- (j) **"Class C" Wine License.** The annual fee for this license shall be set by the City Council from time to time. The fee for less than one (1) year shall be pro-rated.

## **Section 7.2.6 Application for License.**

- (a) **Contents.**
  - (1) ***Filing of Applications.*** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Secs. 887.01 to 887.03, Wis. Stats., and shall be filed with the City Clerk pursuant to Subsection (a)(2) below prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.

- (2) **Filing Time Requirements.**
  - a. All license applications, except Temporary Class "B" Fermented Malt Beverage or Wine licenses lasting under four (4) days, must be filed with the City Clerk at least fifteen (15) days prior to date the license is to take affect.
  - b. All Temporary Class "B" Fermented Malt Beverage or Wine filed with the City Clerk at least five (5) days prior to date the license is to take affect.
- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
- (c) **Application Period.** Each Applicant that is denied a liquor license shall wait one calendar year before submitting another application.
- (d) **Publication.** The City Clerk shall publish each application for a Class "A", Class "B", "Class A", "Class B", or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.26, Wis. Stats., or temporary "Class B" picnic wine licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the official City newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.
- (e) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
- (f) **License Quotas.** The number of persons and places that may be granted a Retail Class "B" Liquor License under this Section is limited as provided in Sec. 125.51(4), Wis. Stats.

## Section 7.2.7 Qualifications of Applicants and Premises.

- (a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.
- (b) **Applicant to have Malt Beverage License.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
- (c) **Right to Premises.** No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.
- (e) **Corporate Restrictions.**
  - (1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless

the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

- (2) The City may require that each corporate applicant file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the City Clerk a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
- (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.
- (f) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- (g) **Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.
- (h) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to the premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:
  - (1) A hotel.
  - (2) A restaurant, whether or not it is a part of or located in any mercantile establishment.
  - (3) A combination grocery store and tavern.
  - (4) A combination sporting goods store and tavern in towns, villages, and fourth class cities.
  - (5) A combination novelty store and tavern.
  - (6) A bowling alley or recreation premises.
  - (7) A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for the Class "B" license or permit.

## **Section 7.2.8 Investigation.**

The City Clerk shall notify the Chief of Police, Fire Inspector and Building Inspector of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, and whether the applicant is a proper recipient of a license. These officials shall furnish to the City Clerk in writing, who shall forward to the Common Council, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.

## **Section 7.2.9 Approval of Application.**

- (a) No license shall be granted for operation on any premises for which taxes, assessments, forfeitures or other financial claims of the City are delinquent and unpaid.
- (b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the City.
- (c) Consideration for the granting or denial of a license will be based on:
  - (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
  - (2) The financial responsibility of the applicant;
  - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
  - (4) Generally, the applicant's fitness for the trust to be reposed.
- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Council, at its discretion, may, based upon an arrest or conviction record of two (2) or

more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

### **Section 7.2.10 Granting of License.**

- (a) Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Common Council, the City Clerk shall issue to the applicant a license, upon payment by the applicant of the license fee to the City.
- (b) If the Common Council denies the license, the applicant shall be notified in writing, by certified mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Common Council and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Sec. 19.85(1)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Common Council consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Common Council meeting at which the application is to be reconsidered.
- (c) Denial. If an applicant has been denied, that application shall not be re-submitted until a period of one (1) year has lapsed from the date of denial.

### **Section 7.2.11 Transfer and Lapse of License.**

- (a) **Procedure.** In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one (1) premises to another if such transfer is first approved by the Common Council. An application for transfer shall be made on a form furnished by the City Clerk: Transfers shall be authorized only for the purpose described in Subsection (c), below, or in the event that the place or premises so licensed are permanently changed to another location within the City. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is set by the City Council from time to time. Whenever a license is transferred, the City Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the City for reissuance of said license and the City, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (b) **Change of Agent.** Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the City Clerk written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special

meeting of the Common Council, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the City Clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Common Council until the successor agent or another qualified agent is appointed and approved by the City.

- (c) **Temporary Change of Licensed Place or Premises.** A license holder may apply not more than one (1) time during each license year for a temporary change of his/her/its licensed place or premises. Such a change shall be allowed solely for the purpose of authorizing the holding of a special event or a picnic at a location in the City which is either separate or distinct from the originally licensed place or premises or which includes additional premises, whether in or out of doors, beyond that described in the original application. Each such request shall be subject to a review and recommendation by the Police Department and such conditions as may be imposed by the Common Council in the best interests of the City, including but not limited to the posting of a bond and/or making arrangements for enforcement of liquor law requirements. The City reserves the right to deny a temporary change of licensed place or premises. No such temporary permit change shall be valid for more than three (3) days.

## **Section 7.2.12            Numbering of License.**

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee. The City Clerk shall submit to the State of Wisconsin the list of licenses as required by Sec. 125.04(4), Wis. Stats.

## **Section 7.2.13            Posting Licenses; Defacement.**

- (a) Every person licensed in accordance with the provisions of this Chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.
- (b) It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.



## Section 7.2.14      Conditions of License.

All retail Class "A", Class "B", "Class A" and "Class B", or "Class C" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the City applicable thereto.

- (a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (b) **Employment of Minors.** No retail "Class B" or Class "B" licenses shall employ any person, under age eighteen (18) as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- (c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- (d) **Licensed Operator on Premises.** There shall be upon premises operated under a "Class B", Class "B", or "Class C" license, at all times, the licensee, members of the licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class B", Class "B", or "Class C" license unless he possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
- (e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- (f) **Restrictions Near Schools and Churches.** No retail Class "A", Class "B", "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church, unless this restriction is waived by majority vote of the Common Council. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building. However, Sec. 125.68(3)(c), Wis. Stats.,

exempts a restaurant within three hundred (300) feet of a church where the sale of alcoholic beverages is less than fifty percent (50%) of the gross receipts.

- (g) **Clubs.** No club shall give away any intoxicating liquors.
- (h) **Gambling Prohibited.** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.
- (i) **Credit Prohibited.** No retail Class "A", Class "B", "Class A", "Class B", or "Class C" liquor, wine, or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- (j) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee or permittee under this Chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.

*Annotation:* See *Colonnade Catering Corp. v. United States*, 397 U.S. 72, 90 S. Ct. 774 (1970); and *State v. Erickson*, 101 Wis. 2d 224 (1981), for guidelines for warrantless searches of licensed premises.

## Section 7.2.15 Closing Hours.

Closing hours shall be established in conformance with Sec. 125.32(3), Wis. Stats., and further restricted as follows:

- (a) **Class "B" Licenses.**
  - (1) No premises for which a retail "Class B" liquor, Class "B" fermented malt beverage, or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.
  - (2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.
- (b) **Carryout Hours.** Class "A" premises may remain open for the conduct of their regular business but may not sell fermented malt beverages between 12 midnight and 6 a.m. No

premises for which a "Class A" license or permit has been issued may remain open for the sale of intoxicating liquor between the hours of 9 p.m. and 6 a.m.

## **Section 7.2.16      Restrictions on Temporary Fermented Malt Beverage or Wine Licenses.**

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any City-owned property or privately-owned property within the City of Hillsboro, except through the issuance of a Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License issued by the Common Council in accordance with Wisconsin Statutes and as set forth in this Section. A Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License authorizing the sale and consumption of beer and/or wine on City-owned property or privately-owned property may be authorized by the Common Council provided the following requirements are met:

- (a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11.4.1. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event shall attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.
- (b) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any underage person without proper identification.
- (c) **Fencing.** If necessary due to the physical characteristics of the site, the Common Council may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.
- (d) **Underage Persons Prohibited.** No persons under age eighteen (18) shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall underage persons be allowed to loiter or linger in the area of any point of sale.
- (e) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.
- (f) **Waiver.** The Common Council may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- (g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims, death of any person or any damage to property caused by or

resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the City of Hillsboro. The applicant may be required to furnish a performance bond prior to being granted the license.

*Cross-Reference:* Section 11.4.1.

## **Section 7.2.17      Revocation and Suspension of Licenses; Non-Renewal.**

- (a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 11, Chapter 4, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.
- (b) **Abandonment of Premises.** Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The losing of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Common Council for up to six (6) months or is used occasionally by a business providing on-premises catering or special event facilities. All persons issued a license to sell alcohol beverages in the City for which a quota exists limiting the number of such licenses that may be issued by the City shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.
- (c) **License Revocation or Suspension.** License revocation or suspension procedures shall be as prescribed by Chapter 125, Wis. Stats.

## **Section 7.2.18      Non-Alcohol Events for Underage Persons on Licensed Premises.**

The presence of underage persons on a licensed premises as provided under Sec. 125.07(3)(a)10, Wis. Stats., shall be subject to the following:

- (a) The licensee or agent of a corporate licensee shall notify the Police Department at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall

be filed with the Police Department during normal working hours (8:00 a.m. to 4:00 p.m., Monday through Friday) and shall be given on forms prescribed by the Department. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Department in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B" or "Class B" license.

- (b) During the period of any non-alcohol event a notice card prescribed by the Police Department shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the Department to a requesting licensee.
- (c) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.
- (d) During the period of any non-alcohol event all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

## **Section 7.2.19 Regulation of Outdoor Consumption and Event Activities.**

- (a) **Purpose.** The Common Council finds that regulations for outdoor consumption of alcohol and outdoor event activities at premises holding "Class B" and Class "B" licenses are necessary due to concerns arising from noise, density, disruptive behavior, and other similar problems related to such activities.
- (b) **Permit Required for Outdoor Consumption.** No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building except under an outdoor consumption permit granted by the Common Council. Outdoor consumption permits are a privilege and no rights shall vest in the permit holder and the Common Council may revoke the permit at any time, and the permits shall expire on June 30 of each year or as otherwise specified in the permit. Violation of any provisions of Ch. 125, Wis. Stats., or applicable provisions of the City's ordinances shall be grounds for immediate revocation of the Outdoor Consumption permit by the Common Council. No person shall consume or have in his or her possession alcoholic beverages on any unenclosed part of the licensed premises that is not described in a valid outdoor consumption permit.

- (c) **Permit Required for Outdoor Event Activities.** No licensee shall conduct or sponsor any outdoor sporting activity, live music, or other outdoor event on the licensee's property without an outdoor event permit granted by the Common Council. Outdoor event permits are a privilege and no rights shall vest in the permit holder and the Common Council may revoke the permit at any time. Annual permits for outdoor events shall expire on June 30 of each year and limited permits for outdoor events shall expire as specified in the permit.
- (d) **Applications for Outdoor Consumption Permits.** All applicants for an Outdoor Consumption permit must hold a Class "B" or "Class B" license under this Chapter. Applicants for an outdoor consumption permits shall file an application with the City Clerk at any time with the required fee containing the following information:
- (1) Name of licensee;
  - (2) If the application is not an annual permit, the desired effective date and duration of the permit;
  - (3) An accurate description of the boundary of the area that the licensee seeks to be covered by the permit and a list of all property owners within one hundred and fifty (150) feet of such boundary;
  - (4) A description of the fencing, screening, or other measures intended to designate the boundaries of the outdoor consumption area;
  - (5) A description of the licensee's plan for operating and controlling the outdoor area.
- (e) **Applications for Outdoor Event Permits.** Applications for outdoor event permits shall be filed with the City Clerk no less than thirty (30) days before the date of the event, however the Common Council may reduce this time limit upon showing of exigent circumstances. Each applicant shall file an application with the City Clerk with the required fee containing the following information:
- (1) The name, address, and telephone number of the person(s) who will be responsible for the actual conduct of the activity or event;
  - (2) The date and duration of the event, or if the application is for an annual outdoor event permit a good faith estimate of the frequency of such events;
  - (3) An accurate description of the boundary of the area that the licensee seeks to be covered by the permit and a list of all property owners within one hundred and fifty (150) feet of such boundary;
  - (4) A good faith estimate of the number of users, participants, and spectators for the event(s);
  - (5) The licensee's plan for operating the event, controlling the event, maintaining sanitary conditions, providing security if necessary, and cleaning up after the event.
- (f) **Adjoining Property Owners to be Notified of Applications.** The City Clerk shall notify all property owners within one hundred fifty (150) feet of the boundaries of the outdoor consumption area or event area as described by the applicant of the application by first class mail.
- (g) **Notice and Consultation with City Officials.** The City Clerk shall notify the City Administrator and the Police Chief within seven (7) days of receiving the application and provide each with a copy. The City Administrator, the Police Chief, other relevant City

officials, or their respective representatives, shall meet with the applicant, shall perform a walk-through of the premises, and shall review the details of the operational plan submitted by the applicant. The City Administrator or Police Chief shall report to the Common Council any additional details or information provided by the applicant that is not contained in the original application.

(h) **Review of Outdoor Consumption Permit Applications.** The Common Council shall review Outdoor Consumption Permit applications in light of the purposes of this Section, any recommendations of city officials, and the following standards:

- (1) The outdoor consumption area should be located away from residential structures as much as possible, with a desired distance of at least one hundred (100) feet of any area zoned for residential use, except for conditional residential uses or mixed uses within business districts.
- (2) The outdoor consumption area must be less than fifty percent (50%) of the gross floor area of the adjoining licensed premises within the building.
- (3) The outdoor consumption area must be clearly designated and enclosed with a physical boundary such as a fence, wall, or other screening not less than three (3) feet in height. The Common Council may require further enclosure or screening surrounding the outdoor area to reduce noise, to enhance aesthetics, or to otherwise further the purposes of this Section.
- (4) The only entrance to the outdoor consumption area should be through the principal building or structure of the licensed premises unless an alternate entrance is supervised during operation.
- (5) The outdoor consumption area design and plan for operation should have minimal adverse impacts on existing or potential surrounding land uses, public safety, the general welfare of the City, and the Common Council may include further restrictions on the permit such as limits on hours of operation, on amplified music and sound, or other restrictions intended to further the purposes of this Section. The Council shall consider the recommendations and reports of city officials.
- (6) Permits shall only be issued if the licensed premise conforms to all applicable zoning ordinances.

(i) **Review of Outdoor Event Permit Applications.** The Common Council shall review Outdoor Event Permit applications in light of the purposes of this Section, any recommendations of city officials, and the following standards:

- (1) The outdoor event area should be located away from residential structures as much as possible, with a desired distance of at least one hundred (100) feet of any area zoned for residential use, except for conditional residential uses or mixed-uses within business districts.
- (2) Sanitary facilities should be adequate for the estimated frequency of events and the number of anticipated participants. The Common Council may require additional temporary restrooms to further the purposes of this Section.
- (3) Parking should be adequate for the proposed event(s).

- (4) The design and plan of the outdoor event boundary area should allow for reasonable access for participants and spectators and should limit access for all other persons.
  - (5) If outdoor consumption of alcohol is intended, the applicant must have a valid outdoor consumption permit, and the applicant must have a satisfactory plan for operation and control of the outdoor event(s).
  - (6) All garbage, debris, and other trash from the event(s) shall be disposed of appropriately at least once every twenty-four (24) hours during the activity and within twenty-four hours after the event.
  - (7) Any amplified sound or music for the event(s) should not exceed seventy-five (75) dB, measured at any boundary of the licensee's real property.
- (j) **State Statutes and Enforcement.**
- (1) Every permit holder under this Section shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to Class "B" and "Class B" licensed premises, except insofar as such provisions are clearly inapplicable. No person shall consume or possess any alcohol beverages on any unenclosed part of a licensed premise that is not described in a valid Outdoor Consumption permit.
  - (2) There shall be a licensed operator supervising the permitted outdoor area at all times the outdoor area is in operation.
  - (3) All other applicable state and local laws and ordinances shall be in full force and effect.
  - (4) Failure to comply with any of the provisions of this Section may be grounds for denial, suspension, non-renewal, or revocation of the permits issued pursuant to this Section, and may be grounds for suspension, non-renewal, or revocation of the licensee's alcohol beverage license or licenses issued pursuant to Ch. 125, Wis. Stats.

## **Section 7.2.20      Nude Dancing in Licensed Establishments Prohibited.**

- (a) **Authority.**
- (1) The Common Council of the City of Hillsboro has explicit authority under Sec. 125.10(1), Wis. Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Ch. 125, Wis. Stats.; and
  - (2) The Common Council has authority under its general police powers set forth in Sec. 62.11(5), Wis. Stats., to act for the good order of the municipality and for the health, safety and welfare of the public; and may carry out its powers by regulation and suppression; and
  - (3) The Common Council recognizes it lacks authority to regulate obscenity in light of Sec. 66.0107(3), Wis. Stats., and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent



- to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and
- (4) Bars and taverns featuring live totally nude, non-obscene, erotic dancing have in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and
  - (5) The Common Council recognizes the U.S. Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and
  - (6) However, the Common Council is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the City of Hillsboro; and
  - (7) Among these secondary effects are:
    - a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
    - b. The potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist;
    - c. Health risks associated with the spread of sexually transmitted diseases; and
    - d. The potential for infiltration by organized crime for the purpose of unlawful conduct; and
  - (8) The Common Council desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the City of Hillsboro; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and
  - (9) The Common Council has determined that enactment of an ordinance prohibiting live, totally nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity.
- (b) **Nude Dancing in Licensed Establishments Prohibited.** It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:
- (1) Shows his/her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or

- (2) Shows any portion of the female breast below a point immediately above the top of the areola; or
- (3) Shows the covered male genitals in a discernably turgid state.
- (c) **Exemptions.** The provisions of this Section does not apply to the following licensed establishments; theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.
- (d) **Definitions.** For purposes of this Section, the term "licensed establishment" means any establishment licensed by the Common Council of the City of Hillsboro to sell alcohol beverages pursuant to Ch. 125, Wis. Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", or "Class C" licensee granted by the Common Council of the City of Hillsboro pursuant to Ch. 125, Wis. Stats.
- (e) **Penalties.** Any person, partnership or corporation who violates any of the provisions of this Section shall be subject to a forfeiture pursuant to Section 1.1.7. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this Section constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Sec. 125.12, Wis. Stats.

**Section 7.2.21** Reserved for Future Use.

**Section 7.2.22** Reserved for Future Use.

**Section 7.2.23** Reserved for Future Use.

**Section 7.2.24** Reserved for Future Use.

**Section 7.2.25** Reserved for Future Use.

**Section 7.2.26** Reserved for Future Use.

**Section 7.2.27** Reserved for Future Use.

**Section 7.2.28** Reserved for Future Use

**Section 7.2.29** Reserved for Future Use.

# Title 7 - Chapter 2

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## Article B: Operator's License

### Section 7.2.30 Operator's License Required.

- (a) **Operator's Licenses; Class "A", Class "B", or "Class C" Premises.** Except as provided under Sec. 125.32(3)(b) and Sec. 125.07(3)(a) 10, Wis. Stats., no premises operated under a Class "A", Class "B", or "Class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under Sec. 125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this Section, any person holding a manager's license under Sec. 125.18, Wis. Stats., or any member of the licensee's or permittee's immediate family who has attained the age of eighteen (18), shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve fermented malt beverages in any place operated under a Class "A", Class "B", or "Class C" license or permit unless he or she has an operator's license or is at least eighteen (18) years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.
- (b) **Use by Another Prohibited.**
- (1) No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.
  - (2) The license or permit of a person who violates Subsection (b)(1) above shall be revoked.

*State Law Reference:* Secs. 125.17 and 125.32, Wis. Stats.

### **Section 7.2.31 Procedure Upon Application.**

- (a) The Common Council may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the City Clerk only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the City.
- (b) When directed by the Common Council, all applications may be subject to an investigation by the Chief of Police and/or other appropriate authority to determine whether the applicant to be licensed complies with all regulations, ordinances and laws applicable thereto. If so directed by the Common Council, the Police Department shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the Chief of Police shall recommend, in writing, to the Common Council a minimum of forty-eight (48) hours prior to the Council's meeting approval or denial of the application. If the Chief of Police recommends denial, the Chief of Police shall provide, in writing, the reasons for such recommendation.

### **Section 7.2.32 Duration.**

Standard operator's licenses issued under the provisions of this Chapter shall be valid for a period of one (1) year and shall expire on the thirtieth (30th) day of June.

### **Section 7.2.33 Operator's License Fee; Provisional or Temporary Licenses.**

- (a) **Fee.** The fee for a standard operator's license, temporary license, and provisional operator's license shall be established by the Common Council and changed from time to time as indicated on the City's Fee Schedule.
- (b) **Provisional License.** The City Clerk may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The City Clerk may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the approved program. A provisional license may not be issued to any person who has been denied an operator's license by the City or who has had his/her operator's license revoked or

suspended within the preceding twelve (12) months. The City Clerk shall provide an appropriate application form to be completed in full by the applicant. The City Clerk may revoke the provisional license issued if he/she discovers that the holder of the license made a false statement on the application. Following completion of the Bartender Awareness Course and notification from the school, the license application will be presented to the Council, with the appropriate fee as prescribed in Subsection (a) above for an operators license. If approved by the Council, the operator's license is issued.

- (c) **Temporary License.** The City Clerk may issue a temporary operator's license, provided that:
- (1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
  - (2) No person may hold more than one (1) license of this kind per year.
  - (3) The license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

## **Section 7.2.34 Issuance or Denial of Operator's Licenses.**

- (a) After Common Council approval of an application for an operator's license, the City Clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
- (b) If the application is denied, the City Clerk shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Common Council in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Council's review of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
- (1) If, upon reconsideration, the Council denies the application, the City Clerk shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.
  - (2) Consideration for the granting or denial of a license will be based on:
    - a. Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
    - b. The financial responsibility of the applicant; and
    - c. Generally, the applicant's fitness for the trust to be reposed.
  - (3) If a licensee is convicted of an offense substantially related to the licensed activity, the Common Council may act to revoke or suspend the license.
  - (4) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if

the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Common Council, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

### **Section 7.2.35      Training Course.**

- (a) Except as provided in Subsection (b) below, the Common Council may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board, or unless the applicant fulfills one of the following requirements:
  - (1) The person is renewing an operator's license.
  - (2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A", "Class B", or "Class C" license or permit or a manager's or operator's license.
  - (3) Within the past two (2) years, the person has completed such a training course.
- (b) The City Clerk may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.
- (c) The Common Council may not require that applicants for operators' licenses undergo training in addition to that under Subsection (a), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection (a).

### **Section 7.2.36      Display of License.**

Each license issued under the provisions of this Chapter shall be posted on the premises whenever the operator dispenses beverages or be in his possession, or carry a license card.

**Section 7.2.37      Revocation of Operator's License.**

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license.

**Section 7.2.38      Reserved for Future Use.**

**Section 7.2.39      Reserved for Future Use.**



# **Title 7 - Chapter 2**

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## **Article C: Penalties**

### **Section 7.2.40 Penalties.**

- (a) Forfeitures for violations of Secs. 125.07 and 125.09 of the Wis. Stats., adopted by reference in Section 7.2.1 of the Code of Ordinances of the City of Hillsboro, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including any variations or increases for subsequent offenses.
- (b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the City of Hillsboro, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the City of Hillsboro.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

# Title 7 - Chapter 3

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## Cigarette Licenses

### Section 7.3.1 Cigarette Licenses.

- (a) **License Required.** No person, firm or corporation shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.
- (b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the City Clerk a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the City Clerk and shall name the licensee and the place wherein he/she is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the City Clerk a license fee that shall be set by the resolution of the City Council and amended from time to time.
- (c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the City Clerk. Each license shall be issued with an effective date of July 1st (but may be issued by the City prior to that date), or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

*State Law Reference:* Sec. 134.65, Wis. Stats.

# Title 7 - Chapter 4

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## Transient Merchants

### Section 7.4.1 Registration Required.

It shall be unlawful for any transient merchant, direct seller or charitable solicitor to engage in direct sales or solicitation activities within the City of Hillsboro without being registered for that purpose as provided herein.

### Section 7.4.2 Definitions.

In this Chapter:

- (a) **Transient Merchant.** Any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become a permanent merchant of such place. For purposes of this Section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include the sale of produce or other perishable products by a resident of this state. For purposes of this Chapter, the term "transient merchant" shall include direct sellers and solicitors seeking donations or funds for an organization, unless excepted.
- (b) **Permanent Merchant.** Any person who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
  - (1) Has continuously operated an established place of business in the local trade area among the communities bordering the place of sale; or
  - (2) Has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his residence.
- (c) **Merchandise.** Personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.
- (d) **Charitable Organization.** Any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.
- (e) **Clerk.** The City of Hillsboro Clerk or Deputy Clerk.

- (f) **Person.** All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.
- (g) **Solicitor.** Any person engaged in direct solicitation who:
  - (1) Seeks donations of money or other contributions of items of value for an organization or cause; or
  - (2) Sells items on behalf of an organization or cause but asks for a contribution of greater value than the item being sold.

### Section 7.4.3 Exemptions.

The following shall be exempt from all provisions of this Chapter:

- (a) **Regular Delivery Routes.** Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) **Wholesalers.** Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) **Agricultural Products.** Any person selling agricultural products which the person has grown;
- (d) **Deliveries by Permanent Merchants.** Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (e) **Requested Home Visits.** Any person who has an established place of business where the merchandise being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person;
- (f) **Prior Sales Transactions.** Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (g) **Services Not Offering Merchandise.** Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) **Auctions; Sales Authorized by Statute.** Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (i) **Charitable Organizations; Limited Exemption.** Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization shall be exempt from fees imposed by this Chapter, provided that there is submitted to the City Clerk proof that such charitable organization is registered under Sec. 440.41, Wis. Stats., and the charitable solicitors register with the City under this Chapter. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (j) **Alleged Transient Merchants.** Any person who claims to be a permanent merchant, but against whom complaint has been made to the City Clerk that such person is a transient

merchant, provided that there is submitted to the City Clerk proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this City for at least one (1) year prior to the date complaint was made.

- (k) **Persons Licensed by Examining Boards.** Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (l) **City Authorized Events.** This Chapter does not apply to transient merchants while doing business at special events authorized by the Common Council.
- (m) **Resident Minors.** Minors under the age of eighteen (18) who are residents of the Hillsboro School District.

## Section 7.4.4 Registration.

- (a) **Registration Information.** Applicants for registration must complete and return to the City Clerk a registration form furnished by the Clerk which shall require the following information:
  - (1) Name, permanent address and telephone number, and temporary address, if any;
  - (2) Height, weight, color of hair and eyes, and date of birth;
  - (3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;
  - (4) Temporary address and telephone number from which business will be conducted, if any;
  - (5) Nature of business to be conducted and a brief description of the merchandise offered and any services offered;
  - (6) Proposed method of delivery of merchandise, if applicable;
  - (7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;
  - (8) Last cities, villages, towns, not to exceed three (3), where applicant conducted similar business just prior to making this registration.
  - (9) Place where applicant can be contacted for at least seven (7) days after leaving this City;
  - (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offense and the place of conviction.
- (b) **Identification and Certification.** Applicants shall present to the City Clerk for examination:
  - (1) A driver's license or some other proof of identity as may be reasonably required;
  - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;

- (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (c) **Registration Fee.**
  - (1) At the time of filing applications, a total fee set by the City Council from time to time shall be paid to the City Clerk to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form. The primary applicant shall pay a registration fee plus a CIB investigation fee as set by the City Council; each assistant under the application shall also be required to pay the CIB fee.
  - (2) The applicant shall sign a statement appointing the City Clerk his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally. Registration may be denied upon failure to comply with this Subsection.
  - (3) Upon payment of said fee and the signing of said statement, the City Clerk shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of thirty (30) days from the date of entry, subject to subsequent refusal as provided in Sec. 7.4.5(b) below.
- (d) **Solicitors.** Solicitors of funds or donations for charitable or other organizations shall comply with all disclosure and registration requirements above, but shall be exempt from the registration fee; such applicants, however, shall each pay the CIB fee.

### **Section 7.4.5 Investigation.**

- (a) Upon receipt of each application, the City Clerk may refer it immediately to the Police Department for an investigation of the statements made in such registration, said investigation to be completed within five (5) days from the time of referral. (Note: This waiting period is necessary in order to complete the investigation process).
- (b) The City Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 7.4.4(b) above.

## Section 7.4.6 Appeal.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Common Council or, if none has been adopted, under the provisions of Secs. 68.07 through 68.16, Wis. Stats.

## Section 7.4.7 Regulation of Transient Merchants; Sales from Private Property; Farm Produce Sales.

### (a) Prohibited Practices.

- (1) ***Sales Prohibited.*** A transient merchant shall be prohibited from calling at any dwelling or other place on Sundays or holidays or between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) ***Misrepresentation.*** A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or characteristics of any merchandise offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (3) ***Use of Public Property; Sales From Private Property.*** No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Without express approval from the Common Council, sales activities shall not be conducted from a public right-of-way or public parking lot. Sale of items from private property shall only be as permitted by the City Zoning Code. Other than for occasional garage sales, any person engaged in temporary sales activity from private property shall be required to first register as required by Sections 7.4.4 and 7.4.5; included in, but not limited to, such regulated activities are sales of Christmas trees, food products, fireworks, art works and sports paraphernalia.
- (4) ***Noise.*** No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.
- (5) ***Refuse.*** No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

### (b) Disclosure Requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
  - (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Secs. 423.203(1), (2) and (3), Wis. Stats.
  - (3) If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.
- (c) **Farm Produce and Other Merchandise Sold on Public Property.**
- (1) ***Sales on City Streets, Alleys, Sidewalks and Property.*** No person may display, market or sell farm or garden produce, or other merchandise on City streets, alleys, sidewalks or public property within the City except as allowed under provisions of this Subsection.
  - (2) ***Definitions.*** As used in this Subsection, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
    - a. "Farm or garden produce" is defined as fruits, vegetables, fresh flowers or flowers, shrubs or trees intended for planting.
  - (3) ***Application for License.*** A license to display, market or sell farm or garden produce on City streets, alleys, sidewalks or public property may be granted by the City upon proper application being made therefore in accordance with the following conditions and requirements:
    - a. Such license shall be granted only to exhibitors in connection with a special civic function sanctioned by the Common Council.
    - b. The term of the license shall commence no earlier than the commencement of the event and extend no later than the last day of the event.
    - c. Any person desiring a license under this Subsection shall, at least fifteen (15) days before the event, file with the City Clerk, an application which contains the following:
      1. The applicant's name and address.
      2. The exact time and place of the sale.
      3. Whether the applicant will be present and in continuous attendance at the proposed sale.



4. Whether the applicant has within two (2) years prior to the application conducted or had any connection with a similar sale in the City or any other place in the County, and if so, to give dates and places of such other sales.
  - d. The Council shall designate the place where said display or sale may be conducted when granting any license under this Subsection.
- (4) **Fee.** The daily license fee shall be set by the City Council from time to time. Each person or group having one (1) stall or exhibit in an event must have a license.
- (5) **Other Merchandise.** Except as provided in Subsection (d) below, non-food product merchandise may only be sold on property zoned private property in compliance with City ordinances.
- (d) **Special Event Vending Permit.**
  - (1) **Permit Required.** There shall be a daily charge as set by the City Council for a special event vending permit. The Common Council will determine whether the applicant qualifies for a special event vending permit. The permit shall set forth the exact dates on which and the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. In addition, the vendor shall have adequate liability insurance in force as required by this Section.
  - (2) **Exclusive Vending Rights During Special Events.**
    - a. During a special event the Common Council may by resolution and after public hearing suspend specifically enumerated restrictions on transient merchants on any street, alley, sidewalk or public square and public park. Alternative rules and procedures may be established by the Common Council for the special event.
    - b. To encourage the integrity, comprehensiveness and success of a special event taking place on any street, alley, sidewalk, public square or public park, the Common Council may by resolution and after public hearing reserve up to ten (10) days during any vending year when transient merchant permits will not be valid at a particular location and when some or all categories of transient merchant permits will not be valid in the perimeter of the special event. During any special event, the rules, guidelines and procedures as set forth in the resolution approved by the Common Council shall take precedence.
    - c. For each such specific day during which certain or all vending permits have been declared to be not valid, the Common Council may by separate resolution and after public hearing, authorize the sponsor of a special event to select vendors, salespersons and vending sites for the duration of the special event within its perimeter. The event's sponsor shall contact the Common Council at least one (1) week before the public hearing with an outline of the rules, regulations, fees, areas affected and a proposed resolution for exclusive vending rights. The determinations of the Common Council as to any specific day during which a transient merchant permit will not be valid shall be by

resolution adopted at least four (4) weeks in advance of such specific day. Transient merchant permits shall be subject to invalidation for up to ten (10) days each vending year of any one (1) location as provided in this subdivision.

- d. No person holding a transient merchant permit may sell or offer for sale any goods or foods during a special event when his/her license is not valid unless authorized by the sponsor of the special event as specified above.

## **Section 7.4.8 Records.**

The Police Department shall report to the City Clerk all convictions for violations of this Chapter and the City Clerk shall note any such violation on the record of the registrant convicted.

## **Section 7.4.9 Revocation of Registration.**

- (a) Registration may be revoked by a City law enforcement officer or City Clerk if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- (b) Provided a written request is filed with the City Clerk within ten (10) days of such revocation, an appeals hearing shall be held before the Common Council or committee thereof. Written notice of the hearing shall be served personally or pursuant to Section 7.4.4(c) on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

# Title 7 - Chapter 5

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## Mobile Homes

### Section 7.5.1 Monthly Parking Fee; Limitations on Parking.

- (a) There is hereby imposed on each owner of a nonexempt, occupied mobile home in the City of Hillsboro a monthly parking fee as determined in accordance with Sec. 66.058(3), Wis. Stats., which is hereby adopted by reference and made part of this Chapter as if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile homeowner. Licensees shall pay to the City Clerk such parking permit fees on or before the 10th day of the month following the month for which such fees are due in accordance with the terms of this Chapter and such regulations as the City Clerk may reasonably promulgate.
  - (1) Licensees of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the City Clerk and Assessor on such homes added to their park or land within five (5) days after arrival of such home on forms furnished by the City Clerk in accordance with Sec. 66.0435(3)(c) and (e), Wis. Stats.
  - (2) Occupants or owners of non-exempt mobile homes parked outside of a mobile home park shall remit such fees directly to the City Clerk as provided in Subsection (a). It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each occupied nonexempt mobile home therein and to remit such fees to the City Clerk as provided in Subsection (a)
- (b) Owners of nonexempt, occupied mobile homes, upon receipt of notice from the City Clerk of their liability for the monthly parking permit fee, shall remit to the City Clerk a cash deposit as set by the City Council to guarantee payment of such fees when due to the City. It shall be the full and complete responsibility of the licensees of a mobile home park to collect such cash deposits from each occupied, nonexempt mobile home therein and to remit such deposits to the City Clerk. Upon receipt of a notice from the owner or licensee that the nonexempt, occupied mobile home has been or is about to be removed from the City, the City Clerk shall apply said cash deposit to reduce any monthly parking permit fees for which said owner is liable and refund the balance, if any, to said owner.

- (c) It shall be unlawful for any person to park a mobile home outside a mobile home park in the City of Hillsboro.

***State Law Reference:*** Sec. 66.0435, Wis. Stats.

# Title 7 - Chapter 6

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## Regulation and Licensing of Fireworks

### Section 7.6.1 Regulation of Fireworks.

- (a) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
- (1) Fuel or a lubricant.
  - (2) A firearm cartridge or shotgun shell.
  - (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
  - (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
  - (5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
  - (6) A toy snake which contains no mercury.
  - (7) A model rocket engine.
  - (8) Tobacco and a tobacco product.
  - (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
  - (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
  - (11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
  - (12) A device that emits smoke with no external flame and does not leave the ground.
  - (13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
  - (14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.
- (b) **Sale.** No person may sell or possess with intent to sell fireworks, except:

- (1) To a person holding a permit under Subsection (c)(3);
  - (2) To a municipality; or
  - (3) For a purpose specified under Subsection (c)(2)b-f.
- (c) **Use.**
- (1) **Permit Required.** No person may possess or use fireworks without a user's permit from the Mayor or from an official or employee of the City as designated by the Common Council. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public.
  - (2) **Permit Exceptions.** Subparagraph (c)(1) above does not apply to:
    - a. The City, except that City fire officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
    - b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Industry, Labor and Human Relations.
    - c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
    - d. The possession or use of explosive or combustible materials in any manufacturing process.
    - e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
    - f. A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.
  - (3) **Who May Obtain Permit.** A permit under this Subsection may be issued only to the following:
    - a. A public authority.
    - b. A fair association.
    - c. An amusement park.
    - d. A park board.
    - e. A civic organization.
    - f. A group of resident or nonresident individuals.
    - g. An agricultural producer for the protection of crops from predatory birds or animals.
  - (4) **Crop Protection Signs.** A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
  - (5) **Bond.** The Mayor issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the City, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the

damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the officer of the City.

- (6) **Required Information for Permit.** A permit under this Subsection shall specify all of the following:
  - a. The name and address of the permit holder.
  - b. The date on and after which fireworks may be purchased.
  - c. The kind and quantity of fireworks which may be purchased.
  - d. The date and location of permitted use.
  - e. Other special conditions prescribed by ordinance.
- (7) **Copy of Permit.** A copy of a permit under this Subsection shall be given to the Fire Chief at least two (2) days before the date of authorized use.
- (8) **Minors Prohibited.** A permit under this Subsection may not be issued to a minor.
- (d) **Storage and Handling.**
  - (1) **Fire Extinguishers Required.** No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.
  - (2) **Smoking Prohibited.** No person may smoke where fireworks are stored or handled.
  - (3) **Fire Chief to be Notified.** A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
  - (4) **Storage Distance.** No wholesaler, dealer or jobber may store fireworks within :  
five hundred (500) feet of a dwelling.
  - (5) **Restrictions on Storage.** No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.
- (e) **Parental Liability.** A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.
- (f) **Temporary Sales of Fireworks.** Temporary or seasonal sales of fireworks from a temporary sales stand, not to exceed thirty (30) days in one (1) calendar year, is permitted only after issuance of a zoning conditional use permit as prescribed by Article D of the Title 13, Chapter 1 (City Zoning Code).

**State Law Reference:** Sec. 167.10, Wis. Stats.

# Title 7 - Chapter 7

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## Street Use Permits

### Section 7.7.1 Street Use Permits.

- (a) **Purpose.** The streets in possession of the City of Hillsboro are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Chief of Police may grant a permit for street use, subject to reasonable municipal regulation and control. However, the Common Council shall grant permits if the event involves the consumption of alcoholic beverages. Therefore, this Chapter is enacted to regulate and control the use of streets pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the City can be protected and maintained.
- (b) **Application.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the City Clerk and shall be filed with the City Clerk. The application shall set forth the following information regarding the proposed street use:
  - (1) The name, address and telephone number of the applicant or applicants.
  - (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
  - (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
  - (4) The date and duration of time for which the requested use of the street is proposed to occur.
  - (5) An accurate description of that portion of the street proposed to be used.
  - (6) The approximate number of persons for whom use of the proposed street area is requested.
  - (7) The proposed use, described in detail, for which the Street Use Permit is requested.



- (c) **Representative at Meeting.** The person or representative of the group making application for a Street Use Permit shall be present when the Chief of Police gives consideration to the granting of said Street Use Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted. These officials shall consider the affect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.
- (d) **Mandatory Denial of Street Use Permit.** An application for a Street Use Permit shall be denied if:
- (1) Unless for an auction, the proposed street use is primarily for private or commercial economic gain, except for specific civic or community events authorized by the Common Council.
  - (2) The proposed street use would violate any federal or state law or any Ordinance of the City.
  - (3) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
  - (4) The application for a Street Use Permit does not contain the information required above.
  - (5) The application requests a period for the use of the street in excess of forty-eight (48) hours.
  - (6) The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the officials may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.
- (e) **Permit Fee.** Each application for a Street Use Permit shall be accompanied by a fee that shall be set by resolution of the City Council and changed from time to time, unless the permit is requested by a public or governmental entity.
- (f) **Consent to Issuance of Street Use Permit.** In addition to the fee required by the previous Subsection, each application for a Street Use Permit, except for parades or races sponsored by civic, youth, school, or scout organizations which have been in existence for at least six (6) months, shall be accompanied by a petition designating the proposed area of the street to be used and time for said proposed use, said petition to be signed by not less than seventy-five percent (75%) of the residents over eighteen (18) years of age residing along that portion of the street designated for the proposed use. Said petition shall be verified and shall be submitted in substantially the following form:

### PETITION FOR STREET USE PERMIT

We, the undersigned residents of the \_\_\_\_\_ hundred block of \_\_\_\_\_ Street in the City of Hillsboro, hereby consent to the recreational or business use of this street between the hours of \_\_\_\_\_ and \_\_\_\_\_ on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for the purpose of \_\_\_\_\_ and do hereby consent to the City of Hillsboro to grant a Street Use Permit for use of the said portion of said street for said purpose and do hereby agree to abide by such conditions of such use as the City of Hillsboro shall attach to the granting of the requested Street Use Permit. We further understand that the permit will not be granted for longer than twelve (12) hours on the date hereinabove specified, and agree to remove from the street prior to the end of said period all equipment, vehicles and other personal property placed or driven thereon during the event for which a permit is granted.

We designate \_\_\_\_\_ as the responsible person or persons who shall apply for an application for a Street Use Permit.

- (g) **Insurance.** The applicant for a Street Use Permit may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the City on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the City of Hillsboro. The applicant may be required to furnish a performance bond prior to being granted the permit.
- (h) **Cleanup Requirements.** The holder of any permit issued under this Section shall return the street to the condition that existed prior to the use, by the time the permit expires. The City will make such restoration in the event that the permit holder for the cost incurred by the City in performing this work. Failure to make timely payment within a reasonable time after receiving the statement for cleaning work shall constitute grounds for refusal to grant the permit holder any other permit in the future.
- (i) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by the Chief of Police if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the City of Hillsboro. The Mayor or Chief of Police have the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

*Cross-Reference:* Sections 7.9.1 and 7.9.2

# Title 7 - Chapter 8

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## Regulation of Nonmetallic Mining

### Section 7.8.1 Statutory Provisions Adopted.

This Chapter is adopted pursuant to Sec. 295.11, Wis. Stats., which is adopted by reference and made a part of this Chapter as if fully set forth herein.

### Section 7.8.2 Definitions.

As used in this Chapter:

- (a) **Environmental Pollution** has the meaning specified under Sec. 299.01(4), Wis. Stats.
- (b) **Nonmetallic Mining or Nonmetallic Mining Operation** means operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (c) **Nonmetallic Mining Refuse** means waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.
- (d) **Nonmetallic Mining Site** means the location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or haulage ways.
- (e) **Operator** means any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under this nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

- (f) **Reclamation** means the rehabilitation of a nonmetallic mining site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
- (g) **Replacement of Topsoil** means the replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

### **Section 7.8.3 Existing Nonmetallic Mining Operations.**

This nonmetallic mining reclamation Chapter shall apply to any portion of a nonmetallic mining site, including unreclaimed portions of a site which were mined prior to the effective date of this Chapter.

### **Section 7.8.4 Exempt Activities.**

This nonmetallic mining reclamation Chapter shall not apply to the following activities:

- (a) Excavations or grading by a person solely for domestic use at his or her residence.
- (b) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (c) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
- (d) Excavations for building construction purposes.
- (e) Any mining operation, the reclamation of which is required in a permit obtained under Sec. 293, Wis. Stats.
- (f) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sec. 289, Wis. Stats., or a hazardous waste disposal facility under Sec. 291, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

### **Section 7.8.5 Permit Required for Nonmetallic Mining.**

- (a) **Permit Required.** No person shall operate any nonmetallic mining site or operation within the City unless he obtains a nonmetallic mining permit from the Common

Council. The fee for such permit shall be set by resolution of the City Council and amended from time to time, payable by certified check. Operators of existing nonmetallic mining operations shall apply for such permit within thirty (30) days of the effective date of this Chapter.

- (b) **Required Permit Information.** An application for a nonmetallic mining permit shall be submitted by the operator and shall include:
- (1) An adequate description of the operation, including a legal description of the property;
  - (2) A plan of the site showing the proposed and existing roads and drives, and the sources, quantity and disposition of water to be used, if any;
  - (3) Estimated dates for completion of the extraction and commencement and completion dates for the reclamation;
  - (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
  - (5) Methods of screening from adjacent properties;
  - (6) Hours of operation;
  - (7) Dust and noise control;
  - (8) Maximum depth;
  - (9) Blasting procedures;
  - (10) Location and height of stockpiles; and
  - (11) Such other information the Common Council deems pertinent to the operation.
- (c) **Reclamation Plan.** The reclamation plan shall contain adequate provision that:
- (1) All final slopes around the area be flatter than a three (3) to one (1) horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle or repose in a quarrying operation;
  - (2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;
  - (3) Excavations made to a water-producing depth shall be not less than three (3) feet measured from the low water mark;
  - (4) All final slopes shall be covered with adequate topsoil and seeded to prevent erosion;
  - (5) The plan shall require that, after completion of the anticipated operation, the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the Common Council;
  - (6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.
- (d) **Applications.** All applications for a license hereunder shall be made in writing upon the written form provided by the City and distributed by the City Clerk. All applications for permits hereunder shall be signed by the applicant and filed with the City Clerk at least sixty (60) days prior to the licensing period. The City Clerk shall immediately refer all applications for a license hereunder to the Common Council for public hearing and approval. The operator shall receive written notice of the public hearing. The license shall

be for a period of time as stated in the application or as modified by the Council. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The Council shall consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The Council may approve, approve conditionally or reject the application and reclamation plan.

- (e) **Financial Assurance.** Before a license and reclamation plan is approved by the Common Council, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Common Council.
  - (2) Guaranteed completion of the required reclamation within a period determined by the Council.
  - (3) Payment by the operator for all costs incurred by the City for review and inspection. This would include preparation and review of plans and specifications by the City Engineer and Attorney, as well as other costs of a similar nature.
  - (4) The City may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
  - (5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the City Engineer's estimated cost of the required improvements.
  - (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the City and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Common Council, at its option, may extend the bond period for additional periods.
- (f) **Fences.** Prior to reclamation, nonmetallic mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- (g) **Inspection.** An authorized agent of the City may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.0119, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Chapter.
- (h) **Prohibitions and Orders.** Nonmetallic mining operations within the City are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Chapter or if other requirements of this Chapter are not met.

## Section 7.8.6 Permit Revocation.

If any permit is revoked, cancelled, rescinded or terminated, the operator shall be given written notice of any charges or violations against him or the reasons proposed for revocation and shall have an opportunity to be heard before the Common Council.

## Section 7.8.7 Blasting and/or Rock Crushing.

- (a) **Definitions.** The following definitions shall apply in the interpretation and enforcement of this Section:
- (1) **Blasting.** A method of loosening, moving or shattering masses of solid matter by use of explosive compounds to prepare stone for crushing, to prepare stone for building and/or ornamental use, or to prepare property for development.
  - (2) **Person.** Any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.
  - (3) **Rock Crusher.** Any device, machine, apparatus or equipment used either individually or in conjunction with any other device, machine, apparatus or equipment for the purpose of crushing, grinding, breaking or pulverizing rock or stone.
- (b) **Operation.** No person within the City shall operate a rock crusher or perform blasting in such a manner so that any dust, dirt or vibration from such operation shall, in any way, damage or injure any person or property within the City. All blasting within the City shall be performed according to the requirements of COMM 5.2 and COMM 7, Wis. Adm. Code, and all subsequent amendments thereto.
- (c) **Permit.**
- (1) **Permit Required.** No person within the City shall operate a rock crusher or perform blasting who does not possess a proper permit therefor from the City.
  - (2) **Applications.** All applications for permits hereunder shall be made in writing upon the written form provided by the City and distributed by the City Clerk. All applications for permits hereunder shall be signed by the applicant and filed with the City Clerk at least sixty (60) days prior to the licensing period. The City Clerk shall immediately refer all applications for permits hereunder to the City Engineer. The City Clerk shall issue a permit hereunder only after first receiving the recommendation of the City Engineer, the duly executed certified check for the permit fee as hereinafter provided and the submittal of the Plan of Operation, if required, as approved by the City Engineer.
  - (3) **Certified Check.** Each application for a permit hereunder shall be accompanied by a certified check in the sum of the required permit fee as hereinafter provided, or a renewal thereof, the same to be payable to the City.
  - (4) **Plan of Operation.** Each application to permit a rock crusher hereunder or renewal thereof shall be accompanied by a Plan of Operation which shall include: methods

of screening from adjacent properties, hours of operation, hours of blasting and operation of rock crusher, dust and noise control, blasting procedures, location and height of stock piles, whether a rock crusher will be needed and how often, water supply, drainage course, maximum depth, legal description of property in question and other information the City Engineer deems pertinent to the proposed operation. Such Plan of Reorganization shall be approved by the City Engineer.

- (5) **Insurance.** Each application for a blasting permit shall be accompanied by a Certificate of Insurance identifying the City of Hillsboro as a party insured in the amount of One Million Dollars (\$1,000,000.00) for damage to property, and One Million Dollars (\$1,000,000.00) for injury to one (1) person and Three Million Dollars (\$3,000,000.00) for injury to more than one (1) person caused by the blasting.
- (d) **Renewals.** All requests for renewals of permits hereunder shall be made at least sixty (60) days prior to the expiration date of the permit and must comply with all requirements of Subsection (c) above.
- (e) **Blasting Procedures and Controls.**
- (1) **Energy Ratio.** The allowable vibration of any blast at the nearest occupied or used building off the subject premises shall not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35" per second based on the following formula:
- Energy ratio =  $0.5 = 10.823 \sqrt{fAZ}$  where: f = frequency in cycles per second,  
A = amplitude or displacement in inches
- Energy ratio =  $.274 VZ$  (V = resultant particles velocity expressed in inches per second)
- (2) **Measurement of Blasts.** The operator of the quarry operation, when requested to do so by the City Engineer, shall measure and submit data to substantiate compliance with the above formula and the operator of the quarry operation, when requested to do so by the City Engineer, shall measure air blast. This verification shall be performed by a seismological engineering firm acceptable to the City or by the City Engineer. Instrumentation shall be by seismograph similar to VME Seismology Model "B" and approved seismograph sound measuring equipment or approved equivalents. All expenses for these tests shall be paid by the quarry operator.
- (3) **Blasting Log.** A log in duplicate shall be kept of each blast on forms similar to the one on file with the City Clerk. The original copy of this blasting log shall be filed with the City Clerk within forty-eight (48) hours after the blast, and a copy shall be kept on file at the quarry office.
- (4) **Cover Material.** Operators of quarries for building and/or ornamental stone removal shall cover Primacord, other detonating cord or surface-laid blasting devices with at least one foot (1') of dirt or other suitable cover material.



- (f) **Permit Fee.** The permit fee for any permit issued pursuant to this Section shall be as set forth below. No permit fee shall be prorated. All permits issued hereunder shall expire on December 31 following the date of issue:
  - (1) Quarries using blasting to supply buildings and/or ornamental stone shall submit a fee as set by the City Council from time to time.
  - (2) Gravel crushing operations using portable or fixed crushing equipment less than thirty (30) days per year. An annual fee shall be established by the City Council from time to time.
- (g) **Penalty.** Any person who shall violate any of the provisions of this Section shall be subject to a penalty as provided in Sec. 1.1.7 of this Code of Ordinances. However, upon conviction for the violation of any of the provisions of this Section by the holder of a permit issued hereunder, and in addition to the forfeiture provided, such permit shall thereupon be cancelled, revoked, rescinded and terminated.
- (h) **Enforcement.** Before renewal of any license issued under this Section is refused or any license is revoked, cancelled, rescinded or terminated, the licensee shall be given written notice of any charges or violations against him/her or the reasons proposed for nonrenewal or revocation and shall have an opportunity to be heard before the Common Council.

# Title 7 - Chapter 9

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## Taxicabs

### Section 7.9.1 Regulation of Taxicabs.

(a) **Licensing of Taxicabs.**

- (1) No person shall operate any motor vehicle for taxicab purposes upon the highways and streets of the City unless such person is licensed by the City as a chauffeur and unless such taxicab business is licensed by the state by the licensing of each taxicab as hereinafter provided.
- (2) Application for the licensing of a taxicab business shall be addressed to the Council and shall be filed with the City Clerk together with a tendered license fee prorated on the basis of the annual license fee set forth in Subsection (4), should each remaining portion of the calendar license year be less than eleven (11) months. The Clerk shall present such application to the Council at its next regular meeting and the Council shall consider such application and shall instruct the Clerk to issue the license or dismiss the application upon majority vote of the Council.
- (3) No license for taxicab business based on new application therefor shall be issued except upon a showing that the available transportation facilities are not adequate to meet the public need, and that the applicant is proper and able to furnish it.
- (4) The taxicab business license fee shall be based on the number of vehicles to be operated hereunder and shall be set by resolution of the City Council and amended from time to time.
- (5) The license year for taxicab business licenses shall be from January 1 through December 31. As a condition to the continued holding and renewal of license for a taxicab business, the proprietor, owner, or his/her agent shall pay to the City the license fees computed as set forth in Subsection (4) above, each year on or before the 15th day of January.

- (b) **Chauffeur's License Required for Taxi Operators.** No person shall operate any motor vehicle for taxicab purposes upon the highways and streets of the City unless such person is licensed by the state as a chauffeur.

*State Law Reference:* Sec. 349.24, Wis. Stats.

## Section 7.9.2 Insurance Required.

- (a) **Unlawful Operation; Required Insurance.** It shall be unlawful to operate a vehicle for the conveyance of passengers for hire or permit the same to be operated, nor shall any license be issued hereunder until and unless the applicant for a license deposit with the City Clerk a certificate of liability insurance for the vehicles for which licenses are sought, said certificate of liability insurance to be acceptable and approved by the City Clerk and issued by a company authorized to do business in the state of Wisconsin, indemnifying the applicant in the amount of Fifty Thousand Dollars (\$50,000.00) for damage to property, and One Hundred Thousand Dollars (\$100,000.00) for injury to one (1) person and Three Hundred Thousand Dollars (\$300,000.00) for injury to more than one (1) person caused by the operation of said vehicles in the City.
- (b) **Insurance Cancellation.** Each taxicab insurance policy shall contain a provision that the same may not be cancelled before the expiration of its term except upon thirty (30) days' written notice to the City. Every day upon which any vehicle is operated for the conveyance of passengers for hire or when taxicab or cab or similar transportation is offered to the public without an insurance policy as required herein being in effect and on file with the City Clerk shall be deemed a separate violation. The cancellation or other termination of any insurance policy issued in compliance with this Section shall automatically revoke and terminate all licenses issued for the taxicab covered by such insurance policy, unless another policy shall be provided and in effect at the time of such cancellation or termination.

## Section 7.9.3 Inspection Required.

- (a) No vehicle shall be licensed until it has been annually examined by the Chief of Police, or such person as he/she may designate, and found to be in a thoroughly satisfactory and safe condition for the transportation of passengers, clean, of good appearance and well painted, and that said vehicle complies with all the other provisions of this Chapter. If such examination and inspection shows that the vehicle does not comply with any of the provisions of this Section, no license shall be issued. At the request of the Chief of Police, the taxicab owners shall take their vehicles to a reputable garage for an independent inspection at the owner's expense.
- (b) No taxicab shall be licensed until the Police Department has approved that:
  - (1) The horn, footbrake, windshield, rear vision mirror, fenders, exhaust system, windshield wipers, emergency brake, directional signals, speedometer, license lamps, tires, headlamps, stop lamps and tail lamps are in legal working order as required by the Wisconsin Motor Vehicle Code;
  - (2) The taxicab is in generally safe, sanitary and reliable condition.
- (c) The inspection required by this Section is only an inspection of the taxicab's exterior and passenger areas, and shall not be a thorough mechanical inspection of the taxicab.

Nothing in this Section shall be interpreted as relieving the owner or operator of a taxicab from any and all liability arising from any unsafe, unsanitary, unreliable or illegal conditions existing in his/her taxicab, whether or not such conditions are discovered or omitted by the inspections required herein. This Section shall not be interpreted as creating a duty or liability on the part of the City, the Police Department or any employee or agent of the City or the Police Department, to any person.

- (d) Any police officer of the City may at all reasonable times inspect any cab under such taxicab business license and may prohibit the use of any cab which is unsafe or not in proper repair.

### **Section 7.9.4 Conditions of License.**

- (a) **Licenses Nontransferable.** Licenses issued or granted under this Chapter shall be nonassignable and nontransferable.
- (b) **Information Card to be Displayed.** A card containing the name of the owner, license number, the number of the vehicle, and rates of fare printed thereon shall be placed and at all times kept in a conspicuous place inside such vehicle.
- (c) **Liability of Licensee.** Any licensee shall be liable for any violations of ordinances or statutes by any and all persons operating taxicabs under its license.
- (d) **Number of Passengers.** No licensee or person driving a taxicab shall carry or permit to be carried in any such vehicle more than the number of persons specified in the license applicable to such vehicle.
- (e) **Common Council May Impose Further Restrictions.** Any licensee hereunder shall be subject to such further regulations and restrictions as may be imposed at any time by the Common Council.

### **Section 7.9.5 Exceptions.**

This Chapter shall not apply to persons, firms or corporations engaged in the business of carrying passengers for hire both interstate and intrastate, between regularly established points and on regularly established time schedules, nor to the operator of a motor vehicle engaged in the business of transporting school students for hire.

### **Section 7.9.6 Refusal to Pay Taxi Fare Prohibited.**

No person who has been transported by a taxicab shall refuse to pay the fare for such transportation as such fare is shown on the taximeter or zone meter.

## Section 7.9.7 Revocation of License.

- (a) **Revocation.** Licenses granted under Sections 7.6.1 through 7.6.4 may be suspended or revoked at any time by the Chief of Police for any violation of this Chapter. When a taxicab license is revoked or cancelled as herein provided, the Chief of Police shall immediately notify the owner to cease at once to operate the vehicle for which the license has been revoked as a taxicab.
- (b) **Appeals.** Any person who receives a revocation of license and objects to all or part thereof may appeal to the Common Council within seven (7) days of the receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of such written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination.

# Title 7 - Chapter 10

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## Flea Markets

### Section 7.10.1 Regulation of Flea Markets.

- (a) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) ***Flea Market.*** A market, indoors or out of doors, where new or used items are sold from individual locations, with each location being operated independently from the other location. Items sold include but are not limited to household items, antiques, rare items, decorations, used books and used magazines.
  - (2) ***Flea Market Seller.*** A person, firm or corporation selling items or offering items for sale at a flea market.
  - (3) ***Market.*** A place where goods are sold to the public.
- (b) **License Required.** No person, firm or corporation shall operate the business of renting space or allocating space to flea market sellers without first obtaining a license therefor from the Common Council. Applications for license shall be made to the City Clerk, on forms to be provided by the City Clerk. Only one (1) license shall be required for each flea market, and the individual flea market sellers shall not be required to obtain a license under this Section. The fee for such license shall be set by the City Council from time to time. The Common Council may restrict the license for use on certain dates and times.
- (c) **Information to Be Filed.** The information to be filed with the City Clerk, pursuant to this Section, shall be as follows:
- (1) Name of person, firm, group, corporation, association, or organization conducting said sale.
  - (2) Name of owner of the property on which said sale is to be conducted, and consent of owner if applicant is other than the owner.
  - (3) Location at which sale is to be conducted.
  - (4) Number of days of sale.
  - (5) Date, nature of any past sale.
  - (6) Relationship or connection applicant may have had with any other person, firm, group, organization, association, or corporation conducting said sale and the date or dates of such sale.
  - (7) Whether or not applicant has been issued any other vendor's license by any local, state or federal agency.
  - (8) Sworn statement or affirmation by the person signing that the information therein given is full and true and known to him/her to be so.

- (d) **Records to be Kept by Licensee.** Each person required by this Section to obtain a license shall keep accurate records of the names and addresses of each flea market seller, together with a brief description of the type or types of merchandise offered for sale by that seller.
- (e) **Secondhand Stores Excepted.** No person, firm or corporation having a license as a secondhand store shall be required to obtain a license under this Section for the same business location.
- (f) **More Than One Market.** Any person, firm or corporation renting or allocating space to flea market sellers in more than one (1) place of business shall be required to obtain a license for each place of business, provided that one (1) license shall be adequate for locations that are on the same lot, adjacent lots or lots separated only by an alley.
- (g) **Unlawful Transactions.** No person shall sell or offer for sale at any flea market any goods known to such person to be stolen.
- (h) **Purchases from Children.** No flea market seller shall purchase any used household item, antique or used article whatsoever from any person under the age of eighteen (18) years, unless such person is accompanied by the person's parent or guardian.
- (i) **Hours.** Flea markets may remain open for business between the hours of 9:00 a.m. and 8:00 p.m., unless otherwise specified on the license by the Council at time of issuance.
- (j) **Penalty.** In addition to the suspension or revocation of a license issued under this Chapter, any person who shall violate any provision of this Section or any regulation, rule or order made hereunder shall be subject to a penalty as provided in Section 1.1.7 of this Code of Ordinances.

## Title 7 - Chapter 11

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# Licensees to Pay Local Claims; Appellate Procedures; Records Checks

### Section 7.11.1 Licensees Required to Pay Local Taxes, Assessments and Claims; Appellate Procedures.

(a) **Payment of Claims as Condition of License.**

- (1) The City shall not issue or renew any license to transact any business within the City of Hillsboro:
  - a. For any purposes for which taxes, assessments or other claims, or special charges or fees of the City are delinquent and unpaid.
  - b. For any person who is delinquent in payment:
    1. Of any taxes, assessments, special charges, fees, or other claims owed the City; or
    2. Of any forfeiture resulting from a violation of any City Ordinance.
- (2) This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapters 1 and 5.
- (3) An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.

(b) **Appeals; Notice and Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:

- (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Sec. 125.12, Wis. Stats., as amended from time to time.
- (2) With respect to licenses other than those described in Subsection (a) herein, the Common Council shall notify the applicant in writing of the City's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Common Council. If the applicant shall fail to appear before the Common Council on the date indicated on the notice, the Common Council shall deny the application for renewal. If the applicant



appears before the Common Council on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Common Council shall conduct a hearing with respect to the matter. At the hearing, both the City and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Common Council determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

- (c) **Other License Denial Appeals.** Where an individual, business or corporation wishes to appeal the City Clerk's decision not to issue a license or permit under this Title on grounds other than those specified in Subsections (a) through (d) above, the applicant may file a request in writing with the City Clerk that the matter be referred to the Common Council. A public hearing shall be scheduled within fourteen (14) calendar days by the Common Council. All parties may be represented by counsel. The Common Council shall consider all relevant information and shall render a decision which shall be binding.

## **Section 7.11.2      Records Checks.**

Applicants for any license specified in this Title, except under Chapters 1 or 5, shall be required to pay a CIB investigation fee at the time of making such application. The City may also require payment of such fee and a records investigation for license renewals.

# TITLE 8

## Health and Sanitation

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# Title 8 - Chapter 1

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## Health and Sanitation

### Section 8.1.1 Rules and Regulations.

The Common Council, acting as Board of Health, may make reasonable and general rules for the enforcement of the provisions of this Chapter and for the prevention of the creation of health nuisances and the protection of the public health and welfare and may, where appropriate, require the issuance of licenses and permits. All such regulations shall have the same effect as ordinances, and any person violating any of such regulations and any lawful order of the Common Council shall be subject to the general penalty provided for in this Code.

### Section 8.1.2 Health Nuisances; Abatement of.

- (a) **Defined.** A health nuisance is any source of filth or cause of sickness.
- (b) **Statute Adopted.** Chapter 823, Wis. Stats., which is adopted by reference and made a part of this Section.

*State Law Reference:* Chapter 823, Wis. Stats.

### Section 8.1.3 Deposit of Deleterious Substances Prohibited.

No person shall deposit or cause to be deposited in any public street or on any public ground or on any private property not his/her own any refuse, garbage, litter, waste material or liquid or any other objectionable material or liquid. When any such material is placed on the person's own private property, it shall be properly enclosed and covered so as to prevent the same from becoming a public nuisance.

## Section 8.1.4 Destruction of Noxious Weeds.

- (a) The City Clerk shall annually on or before May 15th publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the City which he/she owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.
- (b) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the City shall give five (5) days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Sec. 66.0407, Wis. Stats. In case the owner or occupant shall further neglect to comply within such five (5) day notice, then the Weed Commissioner shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.
- (c) As provided for in Sec. 66.0407(4), Wis. Stats., the City shall require that all noxious weeds shall be destroyed prior to the time in which such plants would mature to the bloom or flower state. The growth of noxious weeds in excess of ten (10) inches in height from the ground surface shall be prohibited within the City of Hillsboro corporate limits. Noxious weeds shall include any weed, grass or similar plant growth which, if allowed to pollinate, would cause or produce hayfever in human beings or would cause a skin rash through contact with the skin. Noxious weeds, as defined in this Section and in Section 8.1.6, shall include but not be limited to the following:

- Cirsium Arvense (Canada Thistle)
- Ambrosia artemisiifolia (Common Ragweed)
- Ambrosia trifida (Great Ragweed)
- Euphorbia esula (Leafy Spurge)
- Convolvulus arvensis (Creeping Jenny) (Field Bind Weed)
- Tragopogon dubius (Goat's Beard)
- Rhus radicans (Poison Ivy)
- Cirsium vulgaries (Bull Thistle)
- Pastinaca sativa (Wild Parsnip)
- Arctium minus (Burdock)
- Xanthium strumarium (Cocklebur)
- Amaranthus retroflexus (Pigweed)
- Chenopodium album (Common Lambsquarter) Rumex Crispus (Curled Dock)
- Cannabis sativa (Hemp)
- Plantago lanceolata (English Plantain)

Noxious grasses, as defined in this Section and in Section 8.1.6, shall include but not be limited to the following:

Agrostia alba (Redtop)  
Sorghum halepense (Johnson) Setaria (Foxtail)

Noxious weeds are also the following plants and other rank growth:

Ragweed  
Thistles  
Smartweed  
Dandelions (over 10 inches in height)

*State Law Reference:* Sec. 66.0407, Wis. Stats.

## Section 8.1.5 Regulation of Natural Lawns.

- (a) **Natural Lawns Defined.** Natural lawn as used in this Section shall include common species of grass and wild flowers native to North America which are designed and purposely cultivated to exceed ten (10) inches in height from the ground. Specifically excluded in natural lawns are the noxious grasses and weeds identified in Section 8.1.4 of this Chapter. The growth of a natural lawn in excess of ten (10) inches in height from the ground surface shall be prohibited within the City of Hillsboro corporate limits unless a Natural Lawn Management Plan is approved and a permit is issued by the City as set forth in this Section. Natural lawns shall not contain litter or debris and shall not harbor undesirable wildlife.
- (b) **Natural Lawn Management Plan Defined.**
- (1) Natural Lawn Management Plan as used in this Section shall mean a written plan relating to the management and maintenance of a lawn which contains a clear diagram and description of lawn upon which the planted grass will exceed ten (10) inches in length, a description of the vegetational types, plants and plant succession involved, and the specific management and maintenance techniques to be employed.
  - (2) Property owners who wish to plant and cultivate a natural lawn must submit their written plan and related information to the City. "Property Owner" shall be defined to include the legal title holder and/or the beneficial owner of any such lot according to most current City records. Natural Lawn Management Plans shall only indicate the planting and cultivating of natural lawns on property legally owned by the property owner.
  - (3) Applicants are strictly prohibited from developing a natural lawn on any City owned property including street rights-of-way. This shall include at a minimum

property located between the sidewalk and the street or a strip not less than ten (10) feet adjacent to the street where there is no sidewalk whether the area is under public or private ownership.

- (4) In addition, natural lawns shall not be permitted within ten (10) feet of the abutting property owner's property unless waived in writing by the abutting property owner on the side so affected. Such waiver is to be affixed to the Lawn Management Plan. Such waiver may be revoked, in writing, by the abutting property owner at a later time, a copy to be filed with the permittee and the City Clerk.
- (c) **Application Process.**
- (1) Property owners interested in applying for permission to establish a natural lawn shall file a Natural Lawn Management Plan with the City Clerk. The completed request shall include a non-refundable application and filing fee as set by the City Council from time to time. Upon receiving payment, copies of the completed application shall be mailed by the City to each of the owners of record, as listed in the Office of the City Assessor, who are owners of the property situated wholly or in part within three hundred (300) feet of the boundaries of the properties for which the application is made. If within fifteen (15) calendar days of mailing the copies of the complete application to the neighboring property owners the City receives written objections from any of the neighboring property owners, the City shall deny the application. Neighboring property owners shall be defined as all those property owners who are located within three hundred (300) feet of the proposed natural lawn site.
  - (2) If the property owner's application is in full compliance with the Natural Lawn Management Plan requirements and no neighboring property owners provide written objections, the Common Council may issue permission to install a natural lawn. Such permit shall be valid for only two (2) years. Permit renewals shall follow the procedures in this Section.
- (d) **Safety Precautions For Natural Grass Areas.**
- (1) When, in the opinion of the Fire Chief of the Department serving the City of Hillsboro, the presence of a natural lawn may constitute a fire or safety hazard due to weather and/or other conditions, the Fire Chief may order the cutting of natural lawns to a safe condition. As a condition of receiving approval of the natural lawn permit, the property owner shall be required to cut the natural lawn within the three (3) days upon receiving written direction from the Fire Chief.
- (e) **Revocation Of An Approved Natural Lawn Management Plan Permit.** The Mayor, upon the recommendation of the Weed Commissioner, shall have the authority to revoke an approved Natural Lawn Management Plan Permit. Notice of intent to revoke an approved Natural Lawn Management Plan Permit shall be appealable to the Common Council. All applications for appeal shall be submitted within ten (10) calendar days of receipt of the written Notice of Intent to revoke the approved Natural Lawn Management Plan. Failure to file an application for appeal within the ten (10) calendar days shall result in the revoking of the Natural Lawn Management Plan Permit. All written applications for appeal filed within the fifteen (15) calendar day requirement shall be reviewed by the

Common Council in an open meeting. The decision rendered by the Common Council shall be final and binding.

- (f) **Public Nuisance Defined - Abatement After Notice.**
  - (1) The growth of a natural lawn as defined in this Section shall be considered a public nuisance unless a Natural Lawn Management Plan has been filed and approved and a permit is issued by the City as set forth in this Section.
- (g) **Penalty.**
  - (1) Any person, firm or corporation which does not abate the nuisance within the required time period or who otherwise violates the provisions of this Section shall be subject to the general penalty found in Section 1.1.7.
  - (2) In addition to any penalties herein provided, the City may issue stop work orders upon owners of lots where work is unfinished under a previously issued building permit for any violation of this Section.

## **Section 8.1.6 Regulation of Length of Lawn and Grasses.**

- (a) **Purpose.** This Section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the City of Hillsboro.
- (b) **Public Nuisance Declared.** The Common Council finds that lawns, grasses and noxious weeds on non-agricultural lots or parcels of land, as classified under the City Zoning Code, within the City of Hillsboro which exceed ten (10) inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomforting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interferes with the public convenience and adversely affects property values of other land within the City. For that reason, any non-agricultural lawn, grass or weed on a lot or other parcel of land which exceeds ten (10) inches in length is hereby declared to be a public nuisance, except for property located in a designated floodplain area and/or wetland area or where the lawn, grass or weed is part of a natural lawn approved pursuant to Section 8.1.5 above.
- (c) **Nuisances Prohibited.** No person, firm or corporation shall permit any public nuisance as defined in Subsection (b) above to remain on any premises owned or controlled by him/her within the City.
- (d) **Inspection.** The Weed Commissioner or his/her designee shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance as defined in Subsection (b) above exists.
- (e) **Abatement of Nuisance.** If the owner or occupant shall neglect to cut any lawns as required herein, then the Weed Commissioner of the City shall give five (5) days written notice by mail to the owner or occupant of any lands upon which the lawn is growing in violation herewith to the effect that the said Weed Commissioner after the expiration of the five (5) day notice will proceed to mow or have mown the lawn to meet the requirements of this Section and that the cost of said mowing will be assessed as a tax



upon the lands upon which said lawn is growing pursuant to the provisions of Sec. 66.96, Wis. Stats. In case the owner or occupant shall further neglect to comply with said five (5) day notice, then the Weed Commissioner shall mow or have mown said lawns to comply with this Section in the most economical method and shall include the cost of said mowing and the cost of billing and administrative expenses and shall charge said costs against the property and be collected as a special tax thereon.

- (f) **Due Process Hearing.** If the owner believes that his/her grasses or weeds are not a nuisance, he/she may request a hearing before the Common Council. The request for said hearing must be made in writing to the City Clerk's office within the five (5) days set forth in the Weed Commissioner's notice. Upon application for the hearing, the property owner must deposit a Seventy-five Dollar (\$75.00) bond. If a decision is rendered in the property owner's favor, the Seventy-five Dollars (\$75.00) will be returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of City personnel abating the nuisance, if necessary. When a hearing is requested by the owner of the property, a hearing by the Common Council shall be held within seven (7) days from the date of the owner's request. The property in question will not be mowed by the City until such time as the hearing is held by the Common Council. At the hearing, the owner may appear in person or by his/her attorney, may present witnesses in his/her own behalf and may cross-examine witnesses presented by the City as well as subpoena witnesses for his/her own case. At the close of the hearing, the Common Council shall make its determination in writing specifying its findings, facts, and conclusions. If the Common Council determines that a public nuisance did exist, the Common Council shall order the Weed Commissioner to mow the property in question unless the property has been mowed by the owner within forty-eight (48) hours of the Common Council's decision. If the owner does not abate the nuisance within the described forty-eight (48) hours, the Weed Commissioner shall cause the same nuisance to be abated and cost in excess of the forfeited fee assessed accordingly.
- (g) **City's Option To Abate Nuisance.** In any case where the owner, occupant or person in charge of the property shall fail to cut his/her lawn, grass or weeds as set forth above, then, and in that event, the City may elect to cut said lawn, grass or weeds as follows:
- (1) The written notice required in Subsection (e) shall inform said person that in the event of his/her failure to abate the nuisance within the prescribed time, the City shall abate the same and the cost thereof shall be assessed to the property owner as a special charge.
  - (2) The City shall cut or cause to be cut all grass and weeds from the subject's property and shall charge the expenses of so doing at a rate as established by resolution by the Common Council. The charges shall be set forth in a statement to the City Clerk who, in turn, shall mail the same to the owner, occupant or person in charge of the subject premises. If said statement is not paid in full within thirty (30) days thereafter, the City Clerk shall enter the charges in the tax roll as a special assessment against said lot or parcel of land, and the same shall be collected in all

respects like other taxes upon real estate, or as provided under Sec. 66.0707, Wis. Stats.

### **Section 8.1.7 Compulsory Connection to City Sewer and Water System.**

- (a) **When Required.** Whenever a sewer or watermain becomes available to any building used for human habitation, the owner of the property upon which the building is located shall connect the building to such main or mains in the manner prescribed by law, except the Common Council may defer connection to such water or sewer main or mains for those properties which have existing septic systems or wells whose construction was permitted by the City of Hillsboro, but such deferment shall not exceed five (5) years from the date of installation of such main or mains.
- (b) **Notice.** Whenever a sewer or watermain becomes available to any building used for human habitation, the Building Inspector shall notify the owner or his/her agent in writing by registered mail addressed to the last known address of the owner or his/her agent.
- (c) **City May Cause Connection at Expense of Owner.** If the owner or his/her agent fails to comply with the notice of the Building Inspector within ten (10) days of service or mailing thereof, the Building Inspector may cause connection to be made and the expense thereof shall be assessed as a special tax against the property.
- (d) **Privies, Cesspools, Etc., Prohibited After Connection With Sewer.** After connection of any building used for human habitation to a sewer main, no privy, cesspool or waterless toilet shall be used in connection with such human habitation.

### **Section 8.1.8 Unhealthy, Hazardous or Unsightly Materials on Public or Private Property.**

- (a) **Inspections.**
  - (1) Whenever the Building Inspector, Fire Inspector or other authorized City official shall, upon inspection of any premises within the City of Hillsboro find that there is deposited, placed, stored or remaining on said premises any garbage, junk, rubbish, rubble, trash, abandoned, construction materials, rotting yard and orchard waste, merchandise or parts, accumulation of grease or food wastes in a grease trap or other place or depository which presents a risk of clogging or blocking a sewer system, or any other unhealthy, hazardous or unsightly materials or thing which create a fire or health hazard, or which is detrimental to the appearance, neatness and cleanliness of the immediate neighborhood or the City of Hillsboro in general, such official shall issue his/her written order to the owner and/or occupant of the premises to remove said garbage, junk, rubbish, rubble or trash, abandoned,

- outmoded, or non-salable merchandise or parts, construction materials, rotting yard and orchard waste, accumulation of grease or food wastes in a grease trap or other place or depository which presents a risk of clogging or blocking a sewer system, or other unhealthy, hazardous or unsightly materials or things.
- (2) Said written order shall provide that such removal shall be accomplished within ten (10) days after service of said order upon the owner or occupant of the premises involved. Such written order, in addition to specifying and describing the material or things to be removed, shall also set forth on the face thereof the provisions of Subsection (b).
  - (3) The spraying of hazardous chemicals is strictly prohibited and will be prosecuted under this Section. Spraying non hazardous nontoxic chemicals for the control of noxious weeds is permitted if the area sprayed is less than 400 square feet, per lot, per growing season and so that it does not harm the aesthetics of the neighborhood or devalue surrounding properties. If the area is larger than 400 square feet, then written permission of the City Administrator must be obtained prior to such spraying.
- (b) **Appeal.** Any person feeling himself/herself aggrieved by any order of a City official under this Section may, within ten (10) days from the date of receipt of such order, appeal such order to the Common Council.
  - (c) **Exceptions.** Nothing contained in this Section shall be construed to prohibit the depositing of rubbish, rubble, junk, trash, abandoned, outmoded or nonsalable merchandise or parts or unsightly materials or things which are:
    - (1) Lawfully sited pursuant to the City Zoning Code and operated in a manner not constituting a nuisance; or
    - (2) Temporarily deposited due to an emergency; or
    - (3) Materials during construction; or
    - (4) Collected and piled for immediate pickup and disposal by the City or by private means.
  - (d) **Nonconforming Uses.** It shall not be a defense to the provisions of this Section that the owner or occupant of the premises involved has a nonconforming use under the provisions of the City Zoning Code, but the provisions of this Section shall be complied with notwithstanding that the owner or occupant of any given premises is using or occupying such premises under a valid nonconforming use.
  - (e) This Section shall not apply to junk vehicles as referenced in Section 10.5.8 of the General Ordinances

## Section 8.1.9 Rodent Control.

- (a) **Definitions.** The following definitions shall be applicable in this Section:
  - (1) **Owner or Manager.** Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the City, as executor, administrator, trustee, guardian or agent, such person or persons shall be deemed

and taken to be the owner or owners of such property within the true intent and meaning of this Section and shall be bound to comply with the provisions of this Section to the same extent as the owner, and notice to any such person of any order or decision of the Building Inspector or his/her designee shall be deemed and taken to be a good and sufficient notice, as if such person or persons were actually the owner or owners of such property, except that whenever an entire premises or building is occupied as a place of business, such as a store, factory, warehouse, rooming house, junk yard, lumber yard or any other business under a single management, the person, firm or corporation in charge of such business shall be considered the owner or manager.

- (2) ***A Rodent-Proof Container*** shall be a container constructed of concrete or metal, or the container shall be lined with metal or other material that is impervious to rodents, and openings into the container such as doors shall be tight-fitting to prevent the entrance of rodents.
  - (3) ***Rodent-Proofing*** shall consist of closing openings in building foundations and openings under and around doors, windows, vents and other places which could provide means of entry for rodents, with concrete, sheet iron, hardware cloth or other types of rodent-proofing material approved by the City.
  - (4) ***Rodent Harborage***. Any place where rodents can live and nest without fear of frequent molestation or disturbance.
  - (5) ***Hardware Cloth***. Wire screening of such thickness and spacing as to afford reasonable protection against the entrance of rodents.
- (b) **Elimination of Rodent Harborages**. Whenever accumulations of rubbish, boxes, lumber, scrap metal, car bodies or any other materials provide rodent harborage, the person, firm or corporation owning or in control of such materials shall cause the materials to be removed or the materials shall be stored so as to eliminate the rodent harborage. Lumber boxes and similar materials shall be neatly piled. These piles shall be raised at least a foot above the ground. When the owner of the materials cannot be found after a reasonable search, the owner or manager of the premises on which the materials are stored shall be responsible for disposal, or proper piling, of the materials.
- (c) **Elimination of Rodent-Feeding Places**. No person, firm or corporation shall place, or allow to accumulate, any materials that may serve as a food for rodents in a site accessible to rodents. Any waste material that may serve as food for rodents shall be stored in rodent proof containers. Feed for birds shall be placed on raised platforms, or such feed shall be placed where it is not accessible to rodents.
- (d) **Extermination**. Whenever rodent holes, burrows or other evidence of rodent infestation are found on any premises or in any building within the City, it shall be the duty of the owner or manager of such property to exterminate the rodents or to cause the rodents to be exterminated. Within ten (10) days after extermination, the owner or manager shall cause all of the rodent holes or burrows in the ground to be filled with earth or other suitable material.
- (e) **Rodent-Proofing**. It shall be the duty of the owner or manager of any building in the City of Hillsboro to make such building reasonably rodent-proof, to replace broken

basement windows and, when necessary, to cover the basement window openings with hardware cloth or other suitable material for preventing rodents from entering the building through such window openings.

## **Section 8.1.10 Composting Regulations.**

- (a) **Purpose and Intent.** The purpose of this Section is to promote the recycling of yard wastes and certain kitchen wastes through composting and to establish minimum standards for proper compost maintenance.
- (b) **Definitions.** "Composting" shall mean the organic waste produced from the growing, trimming, and removal of grass, branches [not exceeding one (1) inch in diameter] bushes, shrubs, plants, leaves and garden debris. Kitchen waste shall be any uncooked plant matter not contaminated by or containing meat, fish and/or dairy products.
- (c) **Maintenance.** All compost piles shall be maintained using approved composting procedures to comply with the following requirements:
  - (1) All compost piles shall be enclosed in a free standing compost bin. Each compost bin shall be no larger in volume than one hundred twenty-five (125) cubic feet, and shall be no taller than forty-two (42) inches.
  - (2) All compost bins shall be so maintained as to prevent the attraction or harborage of rodents and pests. The presence of rodents in or near a compost bin shall be cause for the City to proceed under Section 8.1.9.
  - (3) All compost bins shall be so maintained as to prevent unpleasant odors.
  - (4) No compost bin shall be allowed to deteriorate to such condition as to be a blighting influence on the surrounding property or neighborhood or the City in general.
  - (5) All compost bins shall be located not less than three (3) feet from a property line or principal building or dwelling and three (3) feet from any detached accessory building.
    - a. A variance from these setback requirements may be applied for if the property owner(s) can show a hardship exists which prohibits compliance. In addition, any variance application must include a signed written approval of the variance request from the adjacent property owner(s). Variances can be granted by the Building Inspector on an annual basis upon the proper application being submitted by the property owner(s). Screening and/or fencing of compost bins may be required as a condition of a variance being granted.
  - (6) No compost bin shall be located in any yard except a rear yard, as defined in the City Zoning Code. A compost bin may be located in a side yard as defined in the City Zoning Code subject to the annual variance procedure contained in Subsections (c)(5)a and must be screened from view to the street.
  - (7) Those composting bins which existed prior to the adoption of this Section shall be given one (1) year to comply with the requirements set forth herein.

- (d) **Ingredients.**
  - (1) No compost bin shall contain any of the following:
    - a. Lakeweeds;
    - b. Cooked food scraps of any kind or type;
    - c. Fish, meat or other animal products;
    - d. Manures;
    - e. Large items that will impede the composting process.
  - (2) Permitted ingredients in a compost bin shall include the following:
    - a. Yard waste;
    - b. Coffee grounds and used tea leaves;
    - c. Uncooked plant matter not contaminated by or containing meat, fish, and/or dairy products;
    - d. Commercial compost additives.
- (e) **Owner Responsibility.** Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this Section.
- (f) **Municipal Exception.** Any municipal composting site maintained by the City shall be exempt from the provisions of this Section.

### **Section 8.1.11 Discharge of Clear Waters.**

- (a) **Discharge.** No person shall cause, allow or permit any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises owned or occupied by said person to discharge into a sanitary sewer.
- (b) **Nuisance.** The discharge into a sanitary sewer from any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises is hereby declared to be a public nuisance and a hazard to the health, safety and well-being of the residents of the City and to the protection of the property.
- (c) **Groundwater.** Where deemed necessary by the Common Council, every house shall have a sump pump installed for the purpose of discharging clear waters from foundation drains and ground infiltration and where the building is not serviced by a storm sewer shall either discharge into an underground conduit leading to a drainage ditch, gutter, dry well or shall discharge onto the ground surface in such other manner as will not constitute a nuisance as defined herein.
- (d) **Storm Water.** All roof drains, surface drains, drains from any mechanical device, gutters, pipe, conduits or any other objects or things used for the purpose of collecting, conducting, transporting, diverting, draining or discharging storm waters shall be discharged either to a storm sewer, a dry well, an underground conduit leading to a

drainage ditch or onto the ground surface in such other manner as will not constitute a nuisance as defined herein.

- (e) **Storm Sewer Lateral.** Where municipal storm sewers are provided and it is deemed necessary by the property owner and/or the City to discharge clear waters from a parcel of land, a storm sewer lateral shall be installed and connected to the storm sewer main at the expense of the owner.
- (f) **Conducting Tests.** If a designated City agent suspects an illegal clear water discharge as defined by this Chapter or by any other applicable provision of the Wisconsin Administrative Code as it may, from time to time, be amended, he/she may, upon reasonable notice and at reasonable times, enter the private premises where such illegal clear water discharge is suspected and conduct appropriate tests to determine whether such suspected illegal clear water discharge actually exists. In addition, City inspectors may inspect for illegal clear water discharges as a part of a routine inspection without cause.

## **Section 8.1.12      Burial of Animal Carcasses.**

- (a) No person, firm or corporation shall bury or cause to be buried on or in any public street or on any public ground or on any private property belonging to said person, firm or corporation any dead animal, animal carcass or any parts thereof within the City of Hillsboro, except that a resident of the City of Hillsboro, upon receiving a permit from the City Administrator, may bury a domestic household pet on said person's, firm's or corporation's own private property.
- (b) Any person, firm or corporation who violates this Section shall be subject to the general forfeiture provisions of this Code of Ordinances. In addition, said person, firm or corporation shall be required to remove any animal or animal carcass buried in violation of this Section.

## Title 8 - Chapter 2

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### Pollution Abatement

#### Section 8.2.1 Cleanup of Spilled or Accidentally Discharged Wastes.

- (a) **Cleanup Required.** All persons, firms, or corporations delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to, the following: fuel oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catch-basin wastes, oil or petroleum wastes, shall immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing pollution to the lakes and streams under the jurisdiction of the City.
- (b) **Notification.** Spills or accidental release of hazardous materials or pollutants at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible party or parties shall be immediately reported to the City Clerk so that assistance can be given by the proper agency.
- (c) **Financial Liability.** The party or parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the City, or its designated agent, in an effort to minimize the polluttional effects of the discharged waste.

#### Section 8.2.2 Storage of Polluting Substances.

It shall be unlawful for any person, firm or corporation to store any potentially polluting substances unless such substances are stored in such manner as to securely prevent them from escaping onto the ground surface and/or into any street, sewer, ditch or drainageway, lake or stream within the jurisdiction of the City of Hillsboro.



# Title 8 - Chapter 3

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## Solid Waste Management Ordinance

### Section 8.3.1 Title.

- (a) **Title.** This Chapter shall be known as the Solid Waste Management Ordinance of the City of Hillsboro, hereinafter referred to as this "Ordinance" or "Chapter."
- (b) **Garbage and Refuse Collection Service.** All one- and two-family residential garbage and refuse collection service shall be provided by private firms providing such services under contract with the City or by City personnel.

### Section 8.3.2 Declaration of Policy.

It is hereby declared to be the purpose and intent of this Chapter to enhance and improve the environment and promote the health, safety and welfare of the City by establishing minimum standards for the storage, collection, transport, processing, separation, recovery and disposal of solid waste.

### Section 8.3.3 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings given herein unless different meanings are clearly indicated by the context.

- (a) **Agricultural Establishment.** An establishment engaged in the rearing and slaughtering of animals and the processing of animal products or orchard and field crops.
- (b) **Bulky Waste.** Items whose large size precludes or complicates their handling by normal collection, processing or disposal methods.
- (c) **Commercial Unit.** Commercial units shall be all property other than residential units and shall include boarding houses, motels and resorts.
- (d) **Curb.** The back edge or curb and gutter along a paved street or where one would be if the street was paved and had curb and gutter.

- (e) **Demolition Wastes.** That portion of solid wastes consisting of wastes from the repair, remodeling or reconstruction of buildings, such as lumber, roofing and sheathing scraps, rubble, broken concrete, asphalt and plaster, conduit, pipe, wire, insulation and any other materials resulting from the demolition of buildings and improvements.
- (f) **Disposal.** The orderly process of discarding useless or unwanted material.
- (g) **DNR.** The Wisconsin Department of Natural Resources.
- (h) **Dump.** A land site where solid waste is disposed of in a manner that does not protect the environment.
- (i) **Dwelling Unit.** A place of habitation occupied by a normal single family unit or a combination of persons who may be considered as equivalent to a single family unit for the purposes of this Chapter.
- (j) **Garbage.** Includes every refuse accumulation of animals, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables originally used for foodstuffs.
- (k) **Hazardous Waste.** Those wastes such as toxic, radioactive or pathogenic substances which require special handling to avoid illness or injury to persons or damage to property and the environment, including pesticides, acids, caustics, pathological wastes, radioactive wastes, flammable or explosive materials and any such chemical or harmful waste which may require special handling and is considered to be an immediate or potential hazard to operation of a normal solid waste disposal system.
- (l) **Industrial Waste.** Waste material, except garbage, rubbish and refuse, directly or indirectly resulting from an industrial processing or manufacturing operation.
- (m) **Litter.** Solid waste scattered about in a careless manner, usually rubbish.
- (n) **Non-Residential Solid Waste.** Solid waste from agricultural, commercial, industrial or institutional activities or a building or group of buildings consisting of four (4) or more dwelling units.
- (o) **Person.** Individuals, firms, corporations and associations, and includes the plural as well as the singular.
- (p) **Private Collection Services.** Collection services provided by a person licensed to do same by the DNR.
- (q) **Recyclable Waste.** Waste material that can be remanufactured into usable products and shall include, by way of enumeration but not by way of limitation, glass, plastics, newspapers, cardboard, metals (aluminum, steel, tin, brass, etc.).
- (r) **Refuse.** Includes all waste material, including garbage, rubbish and industrial waste and shall, by way of enumeration but not by way of limitation, include grass, leaves, sticks, tree branches and logs, stumps, stone, cement, boards, furniture or household appliances, garden waste and debris.
- (s) **Residential Solid Waste.** All solid waste that normally originates in a residential environment from residential dwelling units.
- (t) **Residential Unit.** Residential unit shall mean an individual household capable of independent habitation by a family unit. A single family dwelling shall be considered to be one (1) residential unit; multi-family dwelling shall be considered to be multiple

residential units, the number of residential units to equal the number of family units to be housed therein. Residential units shall not include boarding houses, motels or resorts.

- (u) **Rubbish.** Includes combustible and noncombustible waste material, except rocks, concrete, bricks and similar solid materials, plaster or dirt, that is incidental to the operation of a building and shall include, by way of enumeration but not by way of limitation, tin cans, bottles, rags, paper, cardboard, sweepings.
- (v) **Sanitary Landfill.** A method of disposing of refuse on land without creating nuisances or hazards to the public health or safety, by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary to alleviate objectionable conditions.
- (w) **Scavenging.** The uncontrolled removal of materials at any point in solid waste management.
- (x) **Solid Waste.** Garbage, rubbish and other useless, unwanted or discarded material from agricultural, residential, commercial, industrial or institutional activities. Solid waste does not include solid or dissolved material in domestic sewage.
- (y) **Storage.** The interim containment of solid waste in an approved manner after generation and prior to collection and ultimate disposal.
- (z) **Storage Areas.** Areas where persons place containers during non-collection days as well as areas where containers are set out on collection day.
- (aa) **Wastes, Building and Demolition.** Solid waste or residue resulting from the construction, remodeling or repair of buildings. It shall not include explosives.

### **Section 8.3.4 Refuse Storage Areas.**

Storage areas shall be kept in a nuisance- and odor-free condition. Litter shall not be allowed to accumulate. Collection crews will not be responsible for cleaning up loose materials from any containers which have become ruptured or broken due to wet conditions, animals, vandalism or other cause. The occupant and/or owner shall be responsible for cleaning up this litter. Litter not collected shall not be allowed to accumulate. Violation will result in the occupant and/or owner being notified to clean up his/her area with continued violation resulting in the owner being prosecuted under the provisions of this and other City Ordinances.

### **Section 8.3.5 Approved Waste and Refuse Containers.**

- (a) **General Container Standards.** Suitable containers of a type approved by the City shall be provided by the property owner or tenant in which to store all solid waste except for bulky or certain yard wastes as provided for herein. Containers, in order to be approved, shall provide for efficient, safe and sanitary handling of solid wastes. They shall be

maintained in a nuisance- and odor-free condition and shall be sufficient to prevent the scattering of contents by weather conditions or animals.

- (b) **Approved Containers.** Approved residential solid waste containers shall consist of metal or plastic containers with tight fitting covers and suitable handles, commonly referred to as garbage cans, or plastic garbage bags which are closed by means of a tie. Approved containers shall be maximum thirty-five (35) gallon size. Containers, including contents, shall not exceed in weight that which one (1) person can safely lift [fifty (50) pounds]. Metal garbage cans shall be of sufficient thickness to resist denting during normal handling by collection crews. Plastic garbage cans shall consist of plastic material not damaged by freezing and not susceptible to melting. They shall be capable of being handled during hot and cold weather without damage during normal handling by collection crews. Plastic bags shall be of sufficient strength to allow lifting and loading of contents without tearing. Each unit will be allowed to dispose of rubbish (not garbage) in small cardboard boxes [no more than nine (9) cubic feet in volume] provided the contents therein are covered and secured, as well as newspapers and magazines, as long as they are tied into bundles a maximum of ten (10) inches high. Should bundles, cardboard boxes and/or contents, because of weather conditions become wet and soaked, they will not be collected, but must be stored by the owner in an approved container for collection on the next collection day. Cardboard boxes will be considered disposable and will not be emptied and returned to the curb.
- (c) **Defective Containers.** All garbage cans incapable of continuing to meet the definition of an approved container because of damage, loss of handles, or other factors, shall be tagged by the collection crew. The collection crew will also leave notification of the defects on the premises. Where garbage cans from several residential units are placed for collection at the same location, the garbage cans shall be identified with the address number so ownership can be determined.
- (d) **Householder to Provide Containers.** It shall be the duty of every occupant, tenant and proprietor of any residential unit to provide, and at all times keep in a suitable place readily accessible to the garbage collector, garbage containers capable of holding all garbage which would ordinarily accumulate on such premises between the times of successive collections. The owner of any multiple dwelling shall furnish or require the tenant thereof to furnish proper garbage containers. Garbage containers located at multiple dwellings shall be marked so as to indicate the residential unit to which they belong.
- (e) **Ashes.** Cold, completely extinguished ashes may be left for collection in cardboard containers.
- (f) **Illegal Containers.** Containers not approved consist of metal barrels and drums, wooden or cardboard barrels, wheelbarrows and other such containers not approved by this Chapter. These containers will not be emptied regardless of contents or weight.

## Section 8.3.6 Collection of Refuse.

(a) **Placement For Collection.**

- (1) Residential solid waste shall be accessible to collection crews. Collection by packer truck is limited to rubbish, garbage, lawn trimmings and brush. Residential solid waste in approved containers shall be placed immediately behind the curb of the public street for collection. Yard and bulky wastes from residential units shall likewise be placed in neat, orderly fashion behind the curb. During winter months, solid waste shall not be placed on top of the snow bank, nor shall it be placed in the roadway. The owner shall either shovel out an area behind the curb in which to place his wastes or he shall place it in his driveway. Collection crews will not collect residential solid waste unless it is placed at the curb of a public street. Residential units shall bring their solid waste to the public right-of-way for collection. Should collection crews be unable to discharge contents of garbage cans into collection vehicles using normal handing procedures, the cans, including contents, will be left at curb side. The owner shall make provisions to assure that the solid waste therein can be collected on the next collection day. Collection crews will not empty garbage cans by means other than dumping.
- (2) No garbage containers or other containers for refuse other than those of the City shall be placed, kept, stored or located within the right-of-way of a street or alley; provided, however, that the Common Council may authorize the location of such containers within the public right-of-way at specified places and times when such location is necessary for the expeditious collection and disposition of refuse.
- (3) To be collectable, brush will be cut and securely tied in bundles not to exceed four (4) feet, four (4) inches in length and twelve (12) inches in diameter, with individual branches or limbs not to exceed two (2) inches in diameter.

- (b) **Restriction on Time of Placement.** All refuse, rubbish, and bundles of rubbish placed in the designated collection locations, as described in Subsection (a) above, between 6:00 p.m. on the evening prior to the day of collection and 5:00 a.m. on the day of collection shall be placed in approved metal or plastic garbage cans with tight fitting covers and suitable handles. All refuse, rubbish, and bundles of rubbish placed in the designated collection locations, as described in Subsection (a) above, after 5:00 a.m. on the day of collection shall be placed in any approved container as defined in Section 8.3.5(b). All receptacles, bags and containers for refuse and garbage disposal shall be removed from the curbside collection point within twenty-four (24) hours after the regular collection time. City employees or employees of licensed collectors will not enter any structures to remove garbage or refuse, except by written agreement with the property owner.

## Section 8.3.7 Prohibited Activities and Non-Collectable Materials.

- (a) **Dead Animals.** It shall be unlawful to place any dead animal, or parts thereof, in a container for collection provided, however, this Section shall not apply to animal parts from food preparation for human consumption.
- (b) **Undrained Food Wastes.** It shall be unlawful to place any garbage or other food wastes in a container for collection unless it is first drained and wrapped.
- (c) **Ashes.** It shall be unlawful to place hot ashes for collection. [See Section 8.3.5(e).]
- (d) **Improper Placement.** It shall be unlawful to place, or allow to be placed, any solid waste upon the roads, streets, public or private property within the City contrary to the provisions of this Chapter.
- (e) **Compliance With Chapter.** It shall be unlawful to store, collect, transport, transfer, recover, incinerate or dispose of any solid waste within the boundaries of the City contrary to the provisions of this Chapter.
- (f) **Improper Transportation.**
  - (1) It shall be unlawful to transport any solid waste in any vehicle which permits the contents to blow, sift, leak or fall therefrom. If spillage does occur, the collection crew shall immediately return spilled materials to the collection vehicle and shall properly clean, or have cleaned, the area. All vehicles used for the collection and transportation of solid waste shall be durable, easily cleanable and leakproof, if necessary, considering the type of waste and its moisture content. Collection vehicles shall be cleaned frequently to prevent nuisances and insect breeding and shall be maintained in good repair.
  - (2) All vehicles and equipment used by commercial carriers shall be kept in a clean and sanitary condition and shall be flushed and swept out after each day's operation. Such cleaning shall be conducted so that none of the material from vehicles is deposited in the City. All such collection vehicles shall be steam cleaned inside and out at least once each week.
- (g) **Interference With Authorized Collector.** No person other than an authorized collector shall collect or interfere with any garbage after it shall have been put into a garbage receptacle and deposited in the proper place for the collector, nor shall any unauthorized person molest, hinder, delay or in any manner interfere with an authorized garbage collector in the discharge of his duties.
- (h) **Scavenging.** It shall be unlawful for any person to scavenge any solid waste placed for collection.
- (i) **Private Dumps.** It shall be unlawful for any person to use or operate a dump.
- (j) **Burning of Waste.** It shall be unlawful for any person to burn solid waste in any manner, except as provided elsewhere in this Code of Ordinances.
- (k) **Non-Collectible Materials.** It shall be unlawful for any person to place for collection any of the following wastes:
  - (1) Hazardous waste;

- (2) Toxic waste;
  - (3) Chemicals;
  - (4) Explosives or ammunition;
  - (5) Drain or waste oil or flammable liquids;
  - (6) Large quantities of paint;
  - (7) Inoperable vehicles or tires;
  - (8) Lumber;
  - (9) Trees, defined as limbs and branches exceeding two (2) inches in diameter.
  - (10) Bulk items, including all major appliances, furniture, bed springs, bathroom fixtures and the like.
- (l) **Animal Wastes.** It shall be unlawful for any person to place animal wastes for collection, except from pets kept on the lot by the owner or tenant.
  - (m) **Hospital Wastes.** It shall be unlawful for any person to place for collection any pathogenic hospital wastes. Such items as needles and syringes may be disposed of as long as they are contained to eliminate injury to collection crews.
  - (n) **Building Waste.** All waste resulting from remodeling, construction or removal of a building, roadway or sidewalk shall be disposed of by the owner, builder or contractor.

### **Section 8.3.8 Garbage Accumulation; When a Nuisance.**

The accumulation or deposit of garbage, trash or putrescible animal or vegetable matter in or upon any lot or land or any public or private place within the City which causes the air or environment to become noxious or offensive or to be in such a condition as to promote the breeding of flies, mosquitoes or other insects, or to provide a habitat or breeding place for rodents or other animals, or which otherwise becomes injurious to the public health is prohibited and declared to constitute a nuisance. In the event of a violation, enforcement shall be by building inspection, law enforcement or health authorities.

### **Section 8.3.9 Refuse From Outside the Municipality.**

It is unlawful for any person, firm or corporation to place, deposit or cause to be deposited, for collection, any waste or refuse not generated within the corporate limits of the City of Hillsboro.

# Title 8 - Chapter 4

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## Recycling

### Section 8.4.1 General Provisions.

- (a) **Title.** The title of this Chapter is the Recycling Ordinance for the City of Hillsboro.
- (b) **Purpose.** The purpose of this Chapter is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in Sec. 287.11, Wis. Stats., and Ch. NR 544, Wis. Adm. Code.
- (c) **Statutory Authority.** This Chapter is adopted as authorized under Sec. 287.09(3)(b), Wis. Stats.
- (d) **Abrogation and Greater Restrictions.** It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall apply.
- (e) **Interpretation.** In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes. Where any terms or requirements of this Chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this Chapter is required by Wisconsin Statutes, or by a standard in Ch. NR 544, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Ch. NR 544 standards in effect on the date of the adoption of this Chapter, or in effect on the date of the most recent text amendment to this Chapter.
- (f) **Applicability.** The requirements of this Chapter apply to all persons within the City of Hillsboro.
- (g) **Administration.** The provisions of this Chapter shall be administered by the City of Hillsboro Common Council, and its designees. The recycling regulations of Vernon County shall govern City of Hillsboro recycling programs, as supplemented by the provisions of this Chapter.



## Section 8.4.2 Definitions.

- (a) For the purpose of this Chapter:
- (1) **Aluminum cans** shall include used beverage cans only.
  - (2) **Bi-metal container** means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
  - (3) **Container board** means corrugated paperboard used in the manufacture of shipping containers and related products.
  - (4) **Container glass** shall include container glass only. "Glass" does not include ceramic cups, dishes, ovenware, plate glass, safety and window glass, heat resistant glass such as pyrex, lead-based glass such as crystal, or TV tubes.
  - (5) **Corrugated cardboard** shall include corrugated cardboard only; it does not include waxed cardboard or chipboard such as cereal boxes, shoe boxes, and similar materials.
  - (6) **Foam polystyrene packaging** means packaging made primarily from foam polystyrene that satisfies one (1) of the following criteria:
    - a. Is designed for serving food or beverages.
    - b. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
    - c. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
  - (7) **HDPE** means high density polyethylene, labeled by the SPI Code #2.
  - (8) **LDPE** means low density polyethylene, labeled by the SPI Code #4.
  - (9) **Magazines** means magazines and other materials printed on similar paper.
  - (10) **Major appliance** means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, refrigerator or stove, residential and commercial furnaces, boilers, dehumidifiers and water heaters, and allowing the disposal of microwaves if the capacitor has been removed.
  - (11) **Mixed papers** shall include all grades of papers, including: white, colored, ledger, shiny, coated, carbonless or NCR papers; envelopes, including windowed, labeled, and kraft; magazines, phone books, computer printout paper, glued pads and tablets, file folders, key punch cards, post-it notes, spiral notebooks, cereal boxes, shoe boxes, etc.; can include paper clips and staples; does not include hand towels or other paper products from restrooms, or soiled napkins and paper plates; also does not include carbon paper, cellophane, or any waxed paper.
  - (12) **Multiple-family dwelling** means a property containing five (5) or more residential units, including those which are occupied seasonally.
  - (13) **Newspapers** shall include newspapers and newspaper advertisements, but does not include catalogues, magazines, cardboard, or other paper products.
  - (14) **Non-residential facilities and properties** means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.

- (15) **Office paper** means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
- (16) **Other resins or multiple resins** means plastic resins labeled by the SPI Code #7.
- (17) **Person** includes any individual, corporation, partnership, association, local governmental unit, as defined in Sec. 66.0131(1)(a), Wis. Stats., state agency or authority or federal agency.,
- (18) **PETE** means polyethylene terephthalate, labeled by the SPI Code #1.
- (19) **Plastic bottles** shall include only plastic bottles clearly marked with the recycling emblem, encircling the #1 (PET or PETE) or the #2 (HDPE); does not include motor oil bottles, even if they are labeled # 1 or #2.
- (20) **Postconsumer waste** means solid waste other than:
  - a. solid waste generated in the production of goods,
  - b. hazardous waste, as defined in Sec. 291.01(5), Wis. Stats.,
  - c. waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Sec. 289.01(17), Wis. Stats.
- (21) **PP** means polypropylene, labeled by the SPI Code #5.
- (22) **PS** means polystyrene, labeled by the SPI Code #6.
- (23) **PVC** means polyvinyl chloride, labeled by the SPI Code #3.
- (24) **Recyclable materials** includes lead acid batteries; major appliances; waste oil; yard waste; aluminum cans; container glass; corrugated cardboard; mixed papers; newspapers; #1 and #2 plastic bottles; tin cans; and waste tires.
- (25) **Solid waste** has the meaning specified in Sec. 289.01(33), Wis. Stats.
- (26) **Solid waste facility** has the meaning specified in Sec. 289.01(35), Wis. Stats.
- (27) **Solid waste treatment** means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.
- (28) **Tin cans** shall include tin coated metal cans, and steel containers.
- (29) **Waste tire** means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
- (30) **Yard waste** means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six (6) inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

### Section 8.4.3 Separation or Recyclable Materials.

- (a) Occupants of single family and two (2) to four (4) unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:
  - (1) Lead acid batteries.
  - (2) Major appliances.

- (3) Waste oil.
  - (4) Yard waste.
  - (5) Aluminum containers.
  - (6) Bi-metal containers.
  - (7) Corrugated paper or other container board.
  - (8) Foam polystyrene packaging.
  - (9) Glass containers.
  - (10) Newspapers.
  - (11) Mixed papers.
  - (12) Plastic bottles #1 and #2.
  - (13) Tin cans.
  - (14) Waste tires.
- (b) Occupants of single-family and two- to four-unit residences, multiple family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:
- (1) Foam polystyrene packaging.
  - (2) Plastic containers made of PETE #1 and HDPE #2.
  - (3) Plastic containers or bottles made of PVC #3, LDPE #4, PP #5, PS #6, and mixed or other plastic resin types #7.

#### **Section 8.4.4 Separation Requirements Exempted.**

The separation requirements of Section 8.4.3 do not apply to the following:

- (a) Occupants of single family and two (2) to four (4) unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Section 8.4.3 from solid waste in as pure a form as is technically feasible.
- (b) Solid waste which is burned as a supplemental fuel at a facility if less than thirty percent (30%) of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- (c) A recyclable material specified in Section 8.4.3(a)(5) through (14) for which a variance has been granted by the Department of Natural Resources under Sec. 287.11(2m), Wis. Stats., or NR 544.14, Wis. Adm. Code.

#### **Section 8.4.5 Care of Separated Recyclable Materials.**

To the greatest extent practicable, the recyclable materials separated in accordance with Section 8.4.3 shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous

waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

### **Section 8.4.6 Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste.**

Occupants of single family and two (2) to four (4) unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil and yard waste as follows:

- (a) Major appliances shall be recycled at a retail business that sells appliances and accepts used appliances for the purpose of recycling.
- (b) Lead acid batteries shall be recycled at a retail business that sells lead acid batteries and accepts used batteries for the purpose of recycling. Any fee imposed for the recycling of used batteries shall be the responsibility of the generator.
- (c) Waste oil shall be recycled at a retail business that sells oil or automotive products and accepts oil for the purpose of recycling, or may be added to the public waste oil disposal tank located outside of the City shop.
- (d) Waste tires shall be recycled at a retail business that sells tires or automotive products.

### **Section 8.4.7 Preparation and Collection of Recyclable Materials.**

Except as otherwise directed by the Common Council, occupants of single family and two (2) to four (4) unit residences shall do the following for the preparation and collection of the separated materials specified in Section 8.4.3(a)(5) through (14):

- (a) All recyclables shall be co-mingled and placed in a recycle bin and placed curbside by 7:00 a.m. on the scheduled collection day.
- (b) Aluminum cans shall be empty and shall include used beverage cans only.
- (c) Container glass shall be cleaned, with caps and neck rings removed. Labels may remain on glass. Glass should not be broken. Glass does not include ceramic cups, dishes, ovenware, plate glass, safety and window glass, heat resistant glass such as Pyrex, lead-based glass such as crystal, or television tubes.
- (d) Corrugated cardboard shall be clean, and must be flattened and bundled in bundles not more than twelve (12) inches high and thirty-six (36) inches wide and forty-eight (48) inches long; does not include waxed cardboard or "chipboard" such as cereal boxes, shoe boxes, and similar materials.
- (e) Office papers shall be bundled in bundles not more than twelve (12) inches high or placed in a brown paper grocery bag; includes all grades of papers, including: white, colored, ledger, shiny, coated, carbonless or NCR papers; envelopes, including

windowed, labeled, and kraft; magazines, computer printout paper, glued pads and tablets, file folders, keypunch cards, post-it notes, etc.; can include paper clips and staples; does not include hand towels or other paper products from restrooms, or soiled napkins and paper plates; also does not include carbon paper, cellophane, or any waxed paper.

- (f) Newspaper shall be bundled in bundles not more than twelve (12) inches high, or placed in a brown paper grocery bag. Includes dry newspaper and newspaper advertisements only; does not include catalogs, magazines, or other paper products, which must be bundled separately.
- (g) Plastic bottles #1 and #2 shall be clearly marked with the recycling emblem, encircling the #1 (PEST or PETE) or the #2 (HDPE); does not include motor oil bottles, even if they are labeled #1 and #2. Caps must be removed. Labels can remain on plastic. All bottles shall be cleaned and flattened.
- (h) Tin cans shall be clean, labels must be removed, both ends must be cut out, and cans must be flattened. Cutout ends are recyclable, tin cans with "molded or round bottoms" can be recycled without the "molded or round bottom" removed, provided the can has been rinsed and labels have been removed. Includes tin coated metal cans and steel containers.

### **Section 8.4.8 Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.**

- (a) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in Section 8.4.3(a)(5) through (14) and Section 8.4.4:
  - (1) Provide adequate, separate containers for the recyclable materials.
  - (2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
  - (3) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
  - (4) Notify tenants of reason to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or site, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- (b) The requirements specified in Subsection (a) do not apply to the owners or designate agents of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Wisconsin Department of Natural Resources that recovers for recycling the materials specified in Section 8.4.3(a)(5) through (14) and Section 8.4.4 from solid waste in as pure a form as is technically feasible.

### **Section 8.4.9 Responsibilities of Owners or Designated Agents of Non-Residential facilities and Properties.**

- (a) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in Section 8.4.3(a)(5) through (14) and Section 8.4.4:
  - (1) Provide adequate, separate containers for the recyclable materials.
  - (2) Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.
  - (3) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
  - (4) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- (b) The requirements specified in Subsection (a) do not apply to the owners or designate agents of non-residential facilities if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Wisconsin Department of Natural Resources that recovers for recycling the materials specified in Section 8.4.3(a)(5) through (14) and Section 8.4.4 from solid waste in as pure a form as is technically feasible.

### **Section 8.4.10 Prohibitions on Disposal of Recyclable Materials Separated for Recycling.**

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in Section 8.4.3(a)(5) through (14) and Section 8.4.4 which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

### **Section 8.4.11 Enforcement.**

- (a) For the purpose of ascertaining compliance with the provisions of this Chapter, any authorized officer, employee or representative of the City of Hillsboro may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer,

employee or authorized representative of the City of Hillsboro who requests access for purpose of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

- (b) Any person who violates a provision of this Chapter may be issued a citation by the City of Hillsboro to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this Subsection.
- (c) Any person who violates this Chapter may be assessed a penalty per Section 1.1.7.

# TITLE 9

## Public Utilities

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# Title 9 - Chapter 1

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## Water Utility Regulations and Rates

### Article A: Rates

#### Section 9.1.1 Public Fire Protection Service - F-1.

- (a) For public fire protection service to the City of Hillsboro, the annual charge shall be **\$96,200** to cover the use of mains and hydrants up to and including the terminal hydrant and connection on each main existing for the 2006 test year.
- (b) For all extensions of fire protection service, there shall be an additional annual charge of **\$885** per net hydrant added to the system in excess of one hundred five (105) hydrants.
- (c) This service shall include the use of hydrants for fire protection service only and such quantities of water as may be demanded for the purposes of extinguishing fires within the municipal boundary. This service shall also include water used for testing equipment and training personnel. For all other purposes, the metered or other rates set forth, or as may be filed with the Public Service Commission, shall apply.
- (d) The annual public fire-protection charge shall never be less than the base amount.

#### Section 9.1.2 General Service - Metered - Mg-1.

(a) Service Charge:	Month	Quarter
5/8-inch meter -	\$6.70	\$20.09
3/4-inch meter -	\$6.70	\$20.09
1-inch meter -	\$11.33	\$33.99
1-1/4-inch meter -	\$15.45	\$46.35
1-1/2-inch meter -	\$19.06	\$57.17
2-inch meter -	\$28.84	\$86.52
3-inch meter -	\$48.41	\$145.23
4-inch meter -	\$75.19	\$225.57
6-inch meter -	\$138.02	\$414.06
8-inch meter -	\$213.21	\$639.63
10-inch meter -	\$313.12	\$939.36
12-inch meter -	\$412.00	\$1,236.00

(b) **Plus Volume Charge:**

First	8,300 gallons used each month or 25,000 gallons used each quarter	-	\$ 2.01 per 1,000 gallons.
Next	58,300 gallons used each month or 175,000 gallons used each quarter	-	\$ 1.24 per 1,000 gallons.
Next	100,000 gallons used each month or 300,000 gallons used each quarter	-	\$ 1.13 per 1,000 gallons.
Over	166,600 gallons used each month or 500,000 gallons used each quarter	-	\$ .88 per 1,000 gallons.

(c) **Billing.** Bills for water service are rendered monthly and become due and payable upon issuance following the period for which service is rendered. Monthly bills are based on actual meter readings or on estimated monthly consumption with a true-up bill rendered at the end of each quarter. Estimated monthly bills will be true-up on dollars at the end of each quarter when meters are read and not on consumption differences between the estimated monthly consumption and the actual quarterly reading. A late payment charge of one percent (1%) per month will be added to bills not paid within twenty (20) days of issuance. This late payment charge will be applied to the total unpaid balance for utility service, including unpaid late payment charges. This late payment charge is applicable to all customers. The utility customer may be given a written notice that the bill is overdue no sooner than twenty (20) days after the bill is issued. Unless payment or satisfactory arrangement for payment is made within the next ten (10) days, service may be disconnected pursuant to Chapter PSC 185, Wis. Adm. Code.

(d) **Combined Metering.**

- (1) Volumetric meter readings will be combined for billing if the utility *for its own convenience* places more than one (1) meter on a single water service lateral. Multiple meters placed for the purpose of identifying water not discharged into the sanitary sewer are *not* considered for utility convenience and shall *not* be combined for billing. Meter readings from individually metered separate service laterals shall not be combined for billing purposes.
- (2) Buildings used in the same business, located on the same parcel and served by a single lateral may have the customer's water supply piping installed to a central point so that volume can be metered in one (1) place.

### Section 9.1.3 Public Service - Mpa-1.

- (a) Water service supplied to municipal buildings, schools, sewer treatment plants, etc., shall be metered and the regular metered service rates applied.
- (b) Water used on an intermittent basis for flushing service, street sprinkling, flooding skating rinks, drinking fountains, etc., shall be metered where meters can be set to measure the service. Where it is impossible to measure the service, the Superintendent shall estimate the volume of water used based on the pressure, size of opening and period

of time water is allowed to be drawn. The estimated quantity used shall be billed at the rate of one 10/100 Dollar (\$1.10) per one thousand (1,000) gallons.

### Section 9.1.4 Reconnection Charges - R-1.

	<b>During Normal Business Hours</b>	<b>After Normal Business Hours</b>
Reinstallation of meter, including valving at curb stop	\$40.00	\$50.00
Valve turned on at curb stop	\$45.00	\$55.00
<b>NOTE:</b> No charge for disconnection.		

### Section 9.1.5 Private Fire-Protection Service – Unmetered - Upf-1.

- (a) **Service.** This service shall consist of unmetered connections to the main for the purpose of supplying water to private fire protection systems such as automatic sprinkler systems, standpipes (where same are connected permanently or continuously to the mains) and private hydrants. This service shall also include reasonable quantities of water used for testing check valves and other backflow prevention devices.
- (b) **Demand Charges for Private Fire-Protection Service.**

<b>Size of Connection</b>	<b>Monthly Charge</b>
2-inch or smaller	\$10.00
3-inch	\$19.00
4-inch	\$31.50
6-inch	\$63.00
8-inch	\$101.00
10-inch	\$152.00
12-inch	\$221.00

- (c) **Billing.** Same provisions as for general service, schedule Mg-1.

### Section 9.1.6 General Water Service - Unmetered - Ug-1.

- (a) **Service.** Where the utility cannot immediately install its water meter, service may be supplied temporarily on an unmetered basis. Such service shall be billed at the rate of Thirteen and 52/100 Dollars (\$13.52) per month. This rate shall be applied to only single-family residential and small commercial customers and approximates the cost of three thousand six-hundred (3,600) gallons of water per month under Schedule Mg-1. If it is

determined by the utility that usage is in excess of three thousand six-hundred (3,600) gallons of water per month, an additional charge per Schedule Mg-1 will be made for the estimated additional usage.

- (b) **Billing.** Same as Schedule Mg-1.

### **Section 9.1.7 Water Lateral Installation Charge - Cz-1.**

- (a) Subdivision developers shall be responsible, where the main extension has been approved by the Utility, for the water service lateral installation costs from the main through the curb stop and box.
- (b) When the cost of a utility main extension is to be collected through assessment by the City, the actual average water lateral installation costs from the main through the curb stop and box shall be included in the assessment of the appropriate properties.
- (c) The initial water lateral, not installed as part of a subdivision development or an assessable utility extension, will be installed from the main through the curb stop and box by the utility, for which there will be made a charge as follows:

3/4-inch or 1-inch copper water service	\$550.00
Larger sized services	Actual Cost

### **Section 9.1.8 Building and Construction Water Service - Mz-1.**

- (a) For single-family and small commercial buildings apply the unmetered rate (Ug-1).
- (b) For large commercial, industrial or multiple apartment buildings a temporary metered installation shall be made and general, metered rates (Mg-1) applied.

### **Section 9.1.9 Bulk Water - Bw-1.**

- (a) All bulk water supplied from the water system through hydrants or other connections shall be metered, or at the direction of the utility, estimated. Utility personnel or utility-approved party shall supervise the delivery of water.
- (b) Bulk water sales are:
  - (1) Water supplied to tank truck or from hydrant for the purpose of extinguishing fires outside the utility's immediate service area;
  - (2) Water supplied by tank truck or from hydrant for purposes other than extinguishing fires such as irrigation or the filling of swimming pools; or

- (3) Water supplied from hydrants or other temporary connections for general service type applications. (Water supplied for construction purposes -- see Schedule Mz-1).
- (c) A charge for the volume of water used will be billed to the party using the water at One and 95/100 Dollars (\$1.95) per one thousand (1,000) gallons. A service charge, in addition to the volumetric charge, will be Twenty-five Dollars (\$35.00).
- (d) A deposit for the meter and/or valve will be required. The deposit collected shall be Twenty-five Dollars (\$25.00) and will be refunded upon return of the utility's equipment. Damaged or lost equipment will be repaired or replaced at the customer's expense.

**Section 9.1.10** Reserved for Future Use.

**Section 9.1.11** Reserved for Future Use.

**Section 9.1.12** Reserved for Future Use.

**Section 9.1.13** Reserved for Future Use.

**Section 9.1.14** Reserved for Future Use.

**Section 9.1.15** Reserved for Future Use.

**Section 9.1.16** Reserved for Future Use.

**Section 9.1.17** Reserved for Future Use.

**Section 9.1.18** Reserved for Future Use.

**Section 9.1.19** Reserved for Future Use.

## **Title 9 - Chapter 1**

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### **Article B: Water Utility Operating Rules**

#### **Section 9.1.20 Compliance with Rules.**

All persons now receiving a water supply from the City of Hillsboro Water Utility, or who may hereafter make application therefor, shall be considered as having agreed to be bound by the rules and regulations as filed with the Public Service Commission of Wisconsin.

#### **Section 9.1.21 Establishment of Service.**

- (a) Application for water service shall be made in writing on a form furnished by the water utility. The application will contain the legal description of the property to be served, name of the owner, the exact use to be made of the service, and the size of the supply pipe and meter desired. (Note particularly any special refrigeration, fire protection, and/or air conditioning water-consuming appliances).
- (b) Service will be furnished only if.
  - (1) Premises have a frontage on a properly platted street or public strip in which a cast iron or other long-life water main has been laid, or where property owner has agreed to and complied with the provisions of the utility's filed main extension rule.
  - (2) Property owner has installed or agrees to install a service pipe from the right-of-way line to the point of use, and laid not less than six (6) feet below the surface of an established or proposed grade, and according to utility's specification, and
  - (3) Premises have adequate piping beyond metering point.
- (c) The owner of a multi-unit dwelling has the option of being served by individual metered water service to each unit. The owner, by selecting this option, is required to provide interior plumbing and meter settings to enable individual metered service to each unit and individual disconnection without affecting service to the other units. Each meter and meter connection will be a separate water utility customer for the purpose of the filed rules and regulations.
- (d) No division of the water service of any lot or parcel of land shall be made for the extension and independent meterage of the supply to an adjoining lot or parcel of land. No division of a water supply service shall be made at the curb for separate supplies therefrom for two (2) or more separate premises having frontage on any street or public service strip whether owned by the same or different parties.

- (e) The Utility is hereby empowered to withhold approval of any application wherein full information of the purpose of such supply is not clearly indicated and set forth by the applicant property owner.

### **Section 9.1.22      Service Contract.**

- (a) The minimum service contract period shall be one (1) year unless otherwise specified by special contract or in the applicable rate schedule. Where the Utility service has been disconnected at the customer's request prior to expiration of his minimum contract period, a reconnection charge shall be made, payable in advance, when the customer requests reconnection of service. (See Schedule R-1 for applicable rate.) The minimum contract period is renewed with each reconnection.
- (b) A reconnection charge shall also be required from consumers whose services are disconnected (shut off at curb stop) because of non-payment of bills when due (not including disconnection for failure to comply with deposit or guarantee rules). (See Schedule R-1 for applicable rate.)
- (c) A consumer shall be considered as the same consumer provided the reconnection is requested for the same location by any member of the same family, or if a place of business, by any partner or employee of the same business.

### **Section 9.1.23      Temporary Metered Supply, Meter and Deposits.**

An applicant for temporary water supply on a metered basis shall make and maintain a monetary deposit for each meter installed, as security for payment for use of water and for such other charges which may arise from the use of the supply. A charge shall be made for setting the valve and furnishing and setting the meter. See Schedule BW-1 for applicable rate.

### **Section 9.1.24      Water for Construction.**

- (a) When water is requested for construction purposes, or for filling tanks or other such uses, an application therefor shall be made to the Utility, in writing, upon application provided for that purpose in the Utility's office, giving a statement of the amount of construction work to be done, or the size of the tank to be filled, etc. Payment for the water for construction shall be made in advance at the scheduled rates. The service pipe must be installed inside the building from where the water must be drawn. No connection with the service pipe at the curb shall be made without special permission from the Utility.



- (b) In no case will any employee of the utility turn on water for construction work unless the contractor first presents a permit. Upon completion of the construction work, the contractor must return the original permit to the Utility, together with a statement of the actual amount of construction work performed.
- (c) Consumers shall not allow contractors, masons or other persons to take water from their premises without first showing a permit from the Department. Any consumer failing to comply with this provision will have water service discontinued.

### **Section 9.1.25 Use of Hydrants.**

- (a) In cases where no other supply is available, permission may be granted by the utility to use a hydrant. No hydrant shall be used until it is equipped with a sprinkling valve. In no case shall any valve be installed or moved except by a member of the utility.
- (b) Before a valve is set, payment must be made for its setting and for the water to be used at the scheduled rates. See Schedule BW-1 for applicable deposits and charges. Upon completing use of the hydrant, the customer must notify the utility to that effect.
- (c) In the use of a hydrant supply, the hydrant valve will be set at the proper opening by the utility when the sprinkling valve is set, and the flow of water must be regulated by means of the sprinkling valve. If the water is to be used through iron pipe connections, all such pipe installations shall have the swing joint to facilitate quick disconnection from the fire hydrant.

### **Section 9.1.26 Operation of Valves and Hydrants; Unauthorized Use of Water; Penalty.**

Any person who shall, without authority of the Utility, allow contractors, masons, or other unauthorized persons to take water from their premises, operate any valve connected with the street or supply mains, or open any fire hydrant connected with the distribution system, except for the purpose of extinguishing fire, or who shall wantonly damage or impair the same shall be subject to a fine as provided by municipal ordinances. Permits for the use of hydrants apply only to such hydrants as are designated for the specific use.

### **Section 9.1.27 Refunds of Monetary Deposits.**

All moneys deposited as security for payment of charges arising from the use of temporary water supply on a metered basis, or for the return of a sprinkling valve wheel or reducer, if the water is used on an unmetered basis, will be refunded to the depositor on the termination of the

use of water, the payment of all charges levied against the depositor, and the return of the wheel and reducer.

### **Section 9.1.28 Service Connections (or Water Laterals).**

- (a) No water service shall be laid through any trench having cinders, rubbish, rock or gravel fill, or any other material which may cause injury to or disintegration of the service pipe, unless adequate means of protection are provided by sand filling or such other insulation as may be approved by the Utility. Service pipes passing through curb or retaining walls shall be adequately safeguarded by provision of a channel space or pipe casing, not less than twice the diameter of the service connection. The space between the service pipe and channel or pipe casing shall be filled and lightly caulked with an oakum, mastic cement, or other resilient material, and made impervious to moisture.
- (b) In backfilling the pipe trench, the service pipe must be protected against injury by carefully hand tamping the ground filling, free from hard lumps, rocks, stones, or other injurious material, around and at least six (6) inches over the pipe.
- (c) All water supplies shall be of undiminished size from the street main in to the point of meter placement. Beyond the meter outlet valve the piping shall be sized and proportioned to provide, on all floors, at all times, an equitable distribution of water supply for the greatest probable number of fixtures or appliances operating simultaneously.

### **Section 9.1.29 Service Piping for Meter Settings.**

- (a) Where the original service piping is installed for a new metered customer, where existing service piping is changed for the customer's convenience, or where a new meter is installed for an existing unmetered customer, the owner of the premises at his expense shall provide a suitable location and the proper connections for the meter. The water utility should be consulted as to the type and size of meter setting. Where it is possible to set meters in the basement, or other suitable place within the building, an IPS code-type gate valve or ball valve must be installed followed by the meter horn or meter couplings, a six- (6) inch brass nipple (for meter horns) followed by an IPS code gate or ball valve. The nipple attached to the union and coupling shall be cut to a standard length provided by the plans of the utility [the superintendent may require a horizontal run of eighteen (18) inches in such pipe line] which may later be removed for the insertion of the meter into the supply line.
- (b) No permit will be given to change from metered to flat rate service.

### **Section 9.1.30      Turning on Water.**

The water cannot be turned on for a consumer except by a duly authorized employee of the utility. When a plumber has completed a job, he must leave the water turned off. This does not prevent the plumber from testing the work.

### **Section 9.1.31      Complaint Meter Tests.**

See Wis. Adm. Code, Chapter PSC 185.

### **Section 9.1.32      Thawing Frozen Services.**

See Wis. Adm. Code, Chapter PSC 185.

### **Section 9.1.33      Curb Stop Boxes.**

The customer shall protect the curb stop box in the terrace and shall keep the same free from dirt and other obstructions. The utility shall not be liable for failure to locate the curb stop box and shut off the water in case of a leak on the owner's premises.

### **Section 9.1.34      Installation of Meters.**

Meters will be furnished and placed by the utility and are not to be disconnected or tampered with by the consumer. All meters shall be so located that they shall be protected from obstructions and permit ready access thereto for reading, inspection, and servicing, such location to be designated or approved by the Utility. All piping within the building must be supplied by the consumer. Where additional meters are desired by the consumer, he shall pay for all piping and an additional amount sufficient to cover the cost of maintenance and depreciation.

### **Section 9.1.35      Repairs to Meters.**

- (a) Meters will be repaired by the water department and the cost of such repairs caused by ordinary wear and tear will be borne by the utility.

- (b) Repair of any damage to a meter resulting from the carelessness of the owner of the premises, his agent, or tenant, or from the negligence of any one of them to properly secure and protect same, including any damage that may result from allowing a water meter to become frozen or to be injured from the presence of hot water or steam in the meter, shall be paid for by the consumer or the owner of the premises.

### **Section 9.1.36 Replacement and Repair of Service Pipe.**

- (a) Where the property owner requests that a larger service lateral be installed to replace an existing smaller diameter pipe, an allowance of Fifteen Dollars (\$15.00) will be made as a deduction in the cost, providing the new service is to be installed in the same ditch as the existing service pipe.
- (b) The service pipe from the main to and through the curb stop will be maintained and kept in repair and when worn out, replaced at the expense of the utility. The property owner shall maintain the service pipe from the curb stop to the point of use.
- (c) If an owner fails to repair a leaking or broken service pipe from curb to point of metering or use within such time as may appear reasonable to the Utility after notification has been served on the consumer by the Utility, the water will be shut off and will not be turned on again until the repairs have been completed.

### **Section 9.1.37 Charges for Water Wasted Due to Leaks.**

See Wis. Adm. Code, Chapter PSC 185.

### **Section 9.1.38 Inspection of Premises.**

During reasonable hours any officer or authorized employee of the utility shall have the right of access to the premises supplied with service, for the purpose of inspection or for the enforcement of the utility's rules and regulations. Whenever appropriate, the utility will make a systematic inspection of all unmetered water taps for the purpose of checking waste and unnecessary use of water.

### **Section 9.1.39 Customer's Deposits.**

See Wis. Adm. Code, Chapter PSC 185.

## **Section 9.1.40      Conditions of Deposit.**

See Wis. Adm. Code, Chapter PSC 185.

## **Section 9.1.41      Guarantee Contracts.**

See Wis. Adm. Code, Chapter PSC 185.

## **Section 9.1.42      Deferred Payment Agreement.**

See Wis. Adm. Code, Chapter PSC 185.

## **Section 9.1.43      Disconnection and Refusal of Service.**

- (a) **Disconnection and Refusal of Service.** See Wis. Adm. Code, Chapter PSC 185.
- (b) **Form.** The form of disconnection notice to be used is as follows:

### **DISCONNECTION NOTICE**

Dear Customer:

The bill enclosed with this notice includes your current charge for utility service and your previous unpaid balance.

**You have 8 days to pay the utility service arrears or your service is subject to disconnection.**

If you fail to pay the service arrears, or fail to contact us within the 8 days allowed to make reasonable time payment arrangements, we will proceed with disconnection action.

To avoid the inconvenience of service interruption and an additional charge of (amount) reconnection, **we urge you to pay the full arrears immediately at one of our offices.**

If you have entered into a Deferred Payment Agreement with us and have failed to make the time payment you agreed to, your service will be subject to disconnection unless you pay the amount due within 8 days.

If you have a reason for delaying the payment, call us and explain the situation. **Please call this telephone number, (appropriate telephone number), immediately if:**

You have a question about your utility service arrears.

You are unable to pay the full amount of the bill and are willing to enter into a time payment agreement with us.

There are any circumstances you think should be taken into consideration before service is discontinued.

Any resident is seriously ill.

### **Illness Provision**

If there is an existing medical emergency in your home and you furnish the Utility with a statement signed by either a licensed Wisconsin physician, or a public health official, we will delay disconnection of service up to 21 days. The statement must identify the medical emergency and specify the period of time during which disconnection will aggravate the existing emergency.

### **Deferred Payment Agreements**

If, for some reason, you are unable to pay the full amount of the utility service arrears on your bill, you may contact the Utility to discuss arrangements to pay the arrears over an extended period of time.

This time payment agreement will require:

Payment of a reasonable amount at the time the agreement is made.

Payment of the remainder of the outstanding balance in monthly installments over a reasonable length of time.

Payment of all future utility service bills in full by the due date.

In any situation where you are unable to resolve billing disputes or disputes about the grounds for proposed disconnection through contacts with our utility, you may make an appeal to the Wisconsin Public Service Commission, Madison, Wisconsin.

(UTILITY NAME)

## **Section 9.1.44      Collection of Overdue Bills.**

An amount owed by the customer may be levied as a tax as provided in Sec. 66.0809(3), Wis. Stats.

## **Section 9.1.45      Surreptitious Use of Water.**

- (a) When the utility has reasonable evidence that a consumer is obtaining his supply of water, in whole or in part, by means of devices or methods used to stop or interfere with the proper metering of the utility service being delivered to his equipment, the utility reserves the right to estimate and present immediately a bill for service unmetered as a result of such interference and such bill shall be payable subject to a twenty-four (24)

hours disconnection of service. When the utility shall have disconnected the consumer for any such reason, the utility will reconnect the consumer upon the following conditions:

- (1) The consumer will be required to deposit with the utility an amount sufficient to guarantee the payment of the consumer's bills for utility service to the utility.
  - (2) The consumer will be required to pay the utility for any and all damages to its equipment on the consumer's premises due to such stoppage or interference with its metering.
  - (3) The consumer must further agree to comply with reasonable requirements to protect the utility against further losses.
- (b) Secs. 98.26 and 943.20, Wis. Stats., as relating to water service, are hereby adopted and made a part of these rules.

### **Section 9.1.46          Vacation of Premises.**

When premises are to be vacated, the utility shall be notified in writing. at once, so that it may remove the meter and shut off the supply at the curb stop. The owner of the premises shall be liable to prosecution for any damage to the property of the water department by reason of failure to notify the utility of vacancy. Failure to notify the Water Utility of said vacancy shall result in a fee, to be set by Resolution of the City Council and amended from time to time, assessment to the said property owner.

### **Section 9.1.47          Repairs to Mains.**

The utility reserves the right to shut off the water in the mains temporarily, to make repairs, alterations or additions to the plant or system. When the circumstances will permit of sufficient delay, the company will give notification, by newspaper publication or otherwise, of the discontinuance of the supply. No rebate will be allowed to consumers for such temporary suspension of supply.

### **Section 9.1.48          Duty of Utility With Respect to Safety of the Public.**

It shall be the duty of the Utility to see that all open ditches for water mains; hydrants, and service pipes are properly guarded to prevent accident to any person or vehicle and at night there shall be displayed amber signal light in such manner as will, so far as possible, insure the safety of the public.

## **Section 9.1.49 Handling Water Mains and Service Pipes in Sewer or Other Trenches.**

Contractors must ascertain for themselves the existence and location of all water mains and service pipes. When removed, cut or damaged during trench construction, contractors must, at their own expense, cause them to be replaced or repaired at once. Contractors must not shut off the water service pipes to any consumer for a period exceeding six (6) hours.

## **Section 9.1.50 Protective Devices.**

- (a) **Protective Devices in General.** The owner or occupant of every premise receiving water supply shall apply and maintain suitable means of protection of the premise supply, and all appliances thereof, against damage arising in any manner from the use of the water supply, variation of water pressure, or any interruption of water supply. Particularly, such owner or occupant must protect water-cooled compressors for refrigeration systems by means of high pressure safety cutout devices. There shall likewise be provided means for the prevention of the transmission of water ram or noise of operation of any valve or appliance through the piping of their own or adjacent premises.
- (b) **Relief Valves.** On all "closed systems" (i.e., systems having a check valve, pressure regulator, or reducing valve, water filter or softener) an effective pressure relief valve shall be installed either in the top tapping or the upper side tapping of the hot water tank, or on the hot water distributing pipe connection at the tank. No stop valve shall be placed between the hot water tank and the relief valve or on the drain pipe. (See applicable City plumbing codes).
- (c) **Air Chambers.** An air chamber or approved shock absorber shall be installed at the terminus of each riser, fixture branch, or hydraulic elevator main for the prevention of undue water hammer. The air chamber shall have a diameter not less than that of the pipe it serves and a length not less than fifteen (15) diameters of said supply pipe. Where possible, the air chamber should be provided at its base with a valve and rain cock for water drainage and replenishment of air.

## **Section 9.1.51 Cross Connection Control.**

- (a) **Definition of Cross Connection.** A cross connection is defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the City of Hillsboro's public water system, and the other of which contains water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other,



with the direction of flow depending on the pressure differential between the two systems.

- (b) **Unprotected Cross Connections Prohibited.** No person, firm, or corporation may establish or maintain, or permit to be established or maintained, any unprotected cross connection. Cross connections shall be protected as required in ch. SPS 382, Wisconsin Administrative Code.
- (c) **Inspection.** The water utility may inspect, or arrange for an inspection of, property served by the public water system for cross connections. As an alternative, the water utility may require a person, firm, or corporation who owns, leases, or occupies property to have their plumbing inspected, at their own expense by a State of Wisconsin Certified Cross Connection Inspector/Surveyor. The frequency of inspections shall be established by the water utility in accordance with Wisconsin Administrative Code. Any unprotected cross connections identified by the inspection shall be promptly corrected. Failure to promptly correct an unprotected cross connection shall be sufficient cause for the water utility to discontinue water service to the property, as provided under section (f) of this ordinance.
- (d) **Right of Entry.** Upon presentation of credentials, a representative of the water utility shall have the right to request entry, at any reasonable time, to a property served by a connection to the public water system for the purpose of inspecting the property for cross connections. Refusing entry to such utility representative shall be sufficient cause for the water utility to discontinue water service to the property, as provided under section (f) of this ordinance. If entry is refused, a special inspection warrant under Section 66.0119 of the Wisconsin Statutes, may be obtained.
- (e) **Provision of Requested Information.** The water utility may request an owner, lessee, or occupant of property served by a connection to the public water system to furnish the water utility with pertinent information regarding the piping systems on the property. Refusing to provide requested information shall be sufficient cause for the water utility to discontinue water service to the property, as provided under section (f) of this ordinance.
- (f) **Discontinuation of Water for Violation.** The water utility may discontinue water service to any property wherein any unprotected connection in violation of this ordinance exists, and take other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service may be discontinued, however, only after reasonable notice and opportunity for hearing under Chapter 68, Wisconsin Statutes, except as provided in section (g) of this ordinance. Water service to such property shall not be restored until the unprotected cross connection has been eliminated.
- (g) **Emergency Discontinuance.** If it is determined by the water utility that an unprotected cross connection or emergency endangers public health, safety, or welfare, and requires immediate action, and if a written finding to that effect is filed with the City Clerk and delivered to the customer's premises, water service may be immediately discontinued. The customer shall have an opportunity for hearing under Chapter 68, Wisconsin Statutes, within ten (10) days of such emergency discontinuance. Water service to such property shall not be restored until the unprotected cross connection has been eliminated.

- (h) **State Code Adopted.** The City adopts by reference the State Plumbing Code of Wisconsin being Chapter COMM 82, Wis. Adm. Code.
- (i) **Section Not to Supersede Other Ordinances.** This Section does not supersede the State Plumbing Code and any City plumbing ordinances but it supplementary to them.

## **Section 9.1.52            Well Abandonment and Well Operation Permit.**

- (a) **Purpose.** To protect public health, safety and welfare and to prevent contamination of groundwater by assuring that unused, unsafe or noncomplying wells or wells which may act as conduits for contamination of groundwater or wells which may be illegally cross-connected to the municipal water system, are properly maintained or abandoned.
- (b) **Applicability.** This Section applies to all wells located on premises served by the Hillsboro municipal water system. Utility customers outside the jurisdiction of the municipal water system may be required under contract agreement or utility rule to adopt and enforce equivalent ordinances within their jurisdictions for purpose stated in section (a) above.
- (c) **Definitions.** As used in this Section:
  - (1) **Municipal Water System.** A community water system owned by a city, village, county, town, town sanitary district, utility district, public inland lake and rehabilitation district, municipal water district or a federal, state, county, or municipal owned institution for congregate care or correction, or a privately owned water utility serving the foregoing.
  - (2) **Noncomplying.** A well or pump installation which does not comply with s. NR812.42, Wisconsin Administrative Code, Standards for Existing Installations, and which has not been granted a variance pursuant to s. NR 812.43, Wisconsin Administrative Code.
  - (3) **Pump Installation.** The pump and related equipment used for withdrawing water from a well, including the discharge piping, the underground connections, pit less adapters, pressure tanks, pits, sampling faucets and well seals or caps.
  - (4) **Unsafe.** A well or pump installation which produces water which is bacteriologically contaminated or contaminated with substances which exceed the drinking water standards of chs. NR 140 or 809, Wisconsin Administrative Code, or for which a Health Advisory has been issued by the Department of Natural Resources.
  - (5) **Unused.** A well or pump installation which is not used for does not have a functional pumping system.

- (6) **Well.** A drill hole or other excavation or opening deeper than it is wide that extends more than 10 feet below the ground surface constructed for the purpose of obtaining groundwater.
- (7) **Well Abandonment.** The proper filling and sealing of a well according to the provisions of s. NR 812.26, Wisconsin Administrative Code.
- (d) **Abandonment Required.** All wells on premises served by the municipal water system shall be properly abandoned in accordance with section (f) of this ordinance by or no later than one (1) year from the date of connection to the municipal water system, unless a valid well operation permit has been issued to the well owner by the City of Hillsboro under terms of section (e) of this ordinance.
- (e) **Well Operation Permit.**
  - (1) Owners of wells on premises served by the municipal water system wishing to retain their wells for any use shall make application for a well operation permit for each well no later than 1 year after connection to the municipal water system. The City of Hillsboro shall grant a permit to a well owner to operate a well for a period not to exceed five (5) years providing all conditions of this section are met. A well operations permit may be renewed by submitting an application verifying that the conditions of this section are met. The City of Hillsboro or its agent, may conduct inspections and water quality tests or require inspections and water quality tests to be conducted at the applicant's expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the Clerk. All initial and renewal applications must be accompanied by a fee as set by the Common Council.
  - (2) The following conditions must be met for issuance or renewal of a well operation permit:
    - a. The well and pump installation shall meet the Standards for Existing Installations describe in s. NR 812.42, Wisconsin Administrative Code,
    - b. The well and pump shall have a history of producing safe water evidenced by at least 1 coliform bacteria sample. In areas where the Department of Natural Resources has determined that groundwater aquifers are contaminated with substances other than bacteria, additional chemical sampling may be required to document the safety of the water,
    - c. There shall be no cross-connections between the well's pump installation or distribution piping and the municipal water system,
    - d. The water from the private well shall not discharge into a drain leading directly to a public sewer utility unless properly metered and authorized by the sewer utility,
    - e. The private well shall have a functional pumping system, and
    - f. The proposed use of the private well shall be justified as reasonable in addition to water provided by the municipal water system.
- (f) **Abandonment Procedures.**
  - (1) All wells abandoned under the jurisdiction of this ordinance shall be done according to the procedures and methods of s. NR 812.26, Wisconsin

Administrative Code. All debris, pumps, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment. As of June 1, 2008, only licensed well drillers and pump installers may perform abandonment (filling and sealing) of wells.

- (2) The owner of the well, or the owner's agent, shall notify the clerk at least 48 hours in advance of any well abandonment activities. The abandonment of the well may be observed or verified by personnel of the municipal system.
  - (3) An abandonment report form, supplied by the Department of Natural Resources, shall be submitted by the well owner to the Clerk and the Department of Natural Resources within thirty (30) days of the completion of the well abandonment.
- (g) **Penalties.** Any well owner violating any provision of this Section shall upon conviction be punished by forfeiture as prescribed by Section 1.1.7 and the cost of prosecution. Each day of violation is a separate offense. If any person fails to comply with this Section for more than thirty (30) days after receiving written notice of the violation, the municipality may impose a penalty and cause the well abandonment to be performed and the expense to be assessed as a special tax against the property.

## **Section 9.1.53 Water Main Extension Rule.**

Water mains will be extended for new customers on the following basis:

- (a) Where the cost of the extension is to immediately be collected through assessment by the City against the abutting property, the procedure set forth under Sec. 66.0703, Wis. Stats., will apply, and no additional customer contribution to the utility will be required.
- (b) Where the municipality is unwilling or unable to make a special assessment, the extension will be made on a customer-financed basis as follows:
  - (1) The applicant(s) will advance as a contribution in aid of construction, the total amount equivalent to that which would have been assessed for all property under Subsection (a).
  - (2) Part of the contribution required in Subsection (b)(1) will be refundable. When additional customers are connected to the extended main within twenty (20) years of the date of completion, contributions in aid of construction will be collected equal to the amount which would have been assessed under Subsection (a) for the abutting property being served. This amount will be refunded to the original contributor(s). In no case will the contributions received from additional customers exceed the proportionate amount which would have been required under Subsection (a) nor will it exceed the total assessable cost of the original extension.
- (c) When a customer connects to a transmission main or connecting loop installed at utility expense within twenty (20) years of the date of completion, there will be a contribution required of an amount equivalent to that which would have been assessed under Subsection (a).

## **Section 9.1.54      Water Main Installations in Platted Subdivisions.**

- (a) Application for installation of water mains in regularly platted real estate development subdivisions shall be filed with the Clerk and shall set forth the following information:
  - (1) Name of subdivision.
  - (2) Legal description.
  - (3) Map showing streets, lots and sizes of proposed mains and hydrants and street laterals.
  - (4) Date of approval of subdivision plan by the Wisconsin Department of Development.
  - (5) Date of approval of proposed mains by state Department of Natural Resources.
  - (6) Number of houses presently under construction.
- (b) Upon receipt of the application, the water utility will prepare detailed estimates of the cost of extending water mains and hydrants of the size deemed necessary in the subdivision and submit same to the municipal governing body for approval of the extension as it pertains to public fire-protection service requirements.
- (c) The applicant for water service to be supplied to a subdivision shall be required to advance to the Utility, prior to the beginning of the construction, the total estimated cost of the extension. If the final costs exceed estimated costs, an additional billing will be made for the balance of the cost due. This balance is to be paid within thirty (30) days. If final costs are less than estimated, a refund of overpayment will be made by the water utility.
- (d) If the developer, or a contractor employed by the developer, is to install the water mains (with approval of the Utility), the developer shall be responsible for the total cost of construction.

## Title 9 - Chapter 2

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# Sewer Utility Rates and Regulations

### Section 9.2.1 Purpose.

The purpose of this Chapter is to assure minimum health standards and to preserve and promote public health, comfort, safety, and general welfare of the public. The Common Council finds that this purpose is served by regulating public and private sewers and drains, discharge of septage, discharge of waters and wastes into public sewers, and by providing methods and means for determining wastewater and septage volumes, constituents and characteristics, for issuing of permits to certain users, for levying and collecting wastewater treatment service charges, and for setting charges and fees pursuant to state law, and by using the revenues so derived to defray the costs of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, debt service costs, and capital improvements.

The Common Council further finds that by setting uniform requirements for discharges into the wastewater collection and treatment systems enables the City to comply with administrative provisions and other discharge criteria that are required or authorized by the State of Wisconsin or Federal law.

### Section 9.2.2 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

- (a) **Approving Authority** shall mean the Common Council of Hillsboro, or its duly authorized committee, agent or representative.
- (b) **Ammonia Nitrogen (NH<sub>3</sub>-N)** shall mean one of the oxidation states of nitrogen, in which nitrogen is combined with hydrogen in molecular form as NH<sub>3</sub> or in ionized form as NH<sub>4</sub>. Quantitative determination of ammonia nitrogen shall be made in accordance with procedures set forth in the most recent edition of "Standard Methods."
- (c) **Biochemical Oxygen Demand (BOD)** shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at twenty (20) degrees Centigrade, expressed in milligrams per liter. Quantitative determination of BOD shall be made in accordance with procedures set forth in the most recent edition of "Standard Methods."

- (d) **Building Drain** shall mean that part of the lowest horizontal piping of a drainage system that receives the discharge from waste and other drainage pipes inside the wall of the building and conveys it to the building sewer, beginning approximately five (5) feet outside the inner face of building wall.
- (e) **Building Sewer** shall mean the extension from the building drain to the public main, and is also referred to as the lateral or house lateral. Except as specifically provided in this Chapter, the City shall not be responsible for the construction and maintenance of building sewers and laterals.
- (f) **Chemical Elements and Compounds** that are typically found in wastewater and may be regulated by by this ordinance and identified as follows:
 

Ammonia Nitrogen	NH <sub>3</sub> -N
Arsenic	As
Cadmium	Cd
Chloride	Cl
Copper	Cu
Chromium	Cr
Cyanide	Cn
Lead	Pb
Mercury	Hg
Nickel	Ni
Nitrogen	N
Phosphorus	P
Radium	Ra
Zinc	Zn
- (g) **Commercial User** shall mean any user whose premises are used primarily for the conduct of a profit-orientated enterprise in the fields of construction, wholesale or retail trade, finance, insurance, real estate or services, and who discharges primarily normal domestic sewage.
- (h) **Compatible Pollutants** shall mean biochemical oxygen demand, suspended solids, phosphorus, nitrogen, or pH, plus additional pollutants identified in the WPDES permit for the wastewater treatment works receiving the pollutant, if such works were designed to treat such additional pollutants to a substantial degree.
- (i) **Easement** shall mean an acquired legal right for the specific use of land owned by others.
- (j) **Fog** means fats, oils and grease.
- (k) **Food Service Facility** means any facility engaged in the preparation of food for human consumption and/or serving of meals, lunches, short orders, sandwiches, frozen desserts, or other edible products. The term includes restaurants, coffee shops, cafeterias, short order cafes, luncheonettes, taverns, lunchrooms, places which manufacture retail sandwiches, soda fountains, institutional cafeterias, catering establishments, and similar facilities.
- (l) **Fryer Oil** means oil that is used and/or reused in the fryers for the preparation of foods such as fried chicken and french fries. Discharge of fryer oil into the sewer system is prohibited.

- (m) **Garbage** shall mean the residue from the preparation, cooking and dispensing of food, and from the handling, storage and sale of food products and produce.
- (n) **Grease** means fats, oils, and grease used for the purpose of preparing food, or resulting from food preparation and includes all elements of FOG. The terms grease and FOG may be used interchangeably.
- (o) **Ground Garbage** shall mean the residue from the preparation, cooking and dispensing of food that has been shredded to such degree that all particulates will be no greater than one-half (1/2) inch in any dimension and will be carried freely in suspension under normal flow conditions in sewers.
- (p) **Holding Tank Service Area** shall mean the area outside the City's current sewer service area, but inside or equal to the City's future sewer service area where a contract has been developed for holding tank wastewater to be treated at the wastewater treatment works.
- (q) **Incompatible Pollutants or Wastewater** shall mean wastewater or septage with pollutants that will adversely affect or disrupt the wastewater treatment processes, effluent quality or sludge quality if discharged to the wastewater facilities.
- (r) **Industrial User** shall mean any user whose premises are used primarily for the conduct of a profit-orientated enterprise in the fields of manufacturing, dairy products processing, meat processing, other food and drink products, painting or finishing operations, transportation, communications or utilities, mining, agriculture, forestry, or fishing.
- (s) **Industrial Waste** shall mean the wastewater from an industrial process, trade, or business, as distinct from sanitary sewage, including cooling water and the discharge from pretreatment facilities.
- (t) **Licensed Disposer** shall mean a person or business holding a valid license to do septage servicing under NR 113.
- (u) **Milligrams per Liter (mg/L)** shall be a weight-to-weight ratio; the milligrams per liter value (mg/L) multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.
- (v) **Municipal Wastewater** shall mean the wastewater of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may have inadvertently entered the sewer system.
- (w) **Natural Outlet** shall mean any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body surface water or groundwater.
- (x) **Normal Domestic Sewage** shall mean sanitary sewage resulting from the range of normal domestic activities, in which BOD, TSS, total Kjeldahl nitrogen, and phosphorus concentrations meet the following.
  - (1) A five (5) day, twenty degree (20°) BOD of not more than two hundred fifty (250) mg/L.
  - (2) A total suspended solids content of not more than three hundred (300) mg/L.
  - (3) A total Kjeldahl nitrogen content of not more than twenty-five (25) mg/L.
  - (4) A total phosphorus content of not more than eight (8) mg/L.



- (y) **Parts per Million (ppm)** shall mean a weight-to-weight ratio; the parts per million value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water. Equivalent to milligrams per liter (mg/L).
- (z) **Person** shall mean any and all persons, including any individual, firm, company, municipal or private corporations, association, society, institution, enterprise, government agency or other entity.
- (aa) **pH** shall mean the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution. Neutral water, for example, has a pH value of seven (7) and a hydrogen ion concentration of  $10^{-7}$ .
- (bb) **Pretreatment** shall mean an arrangement of devices and structures, for the preliminary treatment of processing of wastewater required to render such wastes acceptable for admission to the public sewers.
- (cc) **Private Sewer** shall mean any sewer outside of a public right of way or public easement. Except as provided in this Chapter, a private sewer shall not be subject to the jurisdiction of the City and the City shall not be responsible for the construction and/or maintenance of such sewer.
- (dd) **Public Sewer** shall mean any sewer provided by or subject to the jurisdiction of the City of Hillsboro. It shall also include sewers within or outside the corporate boundaries that serve more than one person and ultimately discharge into the City sanitary sewer system, even though those sewers may not have been constructed with City funds. Public sewers shall not include private sewers or building sewers.
- (ee) **Public User** shall mean any user discharging Normal Domestic Sewage whose premises are used primarily by a governmental entity, private school or public school.
- (ff) **Residential User** shall mean any dwelling discharging Normal Domestic Sewage. This includes single-family homes, mobile homes, duplex units and apartment units. Each single-family residential unit shall be separately metered and invoiced as a separate user.
- (gg) **Sanitary Sewage** shall mean a combination of water-carried wastes from residences, business buildings, institutions and industrial plants (other than industrial wastes from such plants), together with such ground, surface and storm waters as may be present.
- (hh) **Sanitary Sewer** shall mean a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with small quantities of ground, storm, and surface waters that are not admitted intentionally.
- (ii) **Septage** shall mean the wastewater or contents of septic or holding tanks, dosing chambers, seepage beds, seepage pits, seepage trenches, privies or portable restrooms.
- (jj) **Sewage** is the spent water of a community. The preferred term is “municipal wastewater.”
- (kk) **Sewer Service Areas** are the areas presently served and anticipated to be served by a municipal wastewater collection system. The sewer service area is delineated in the most recently approved Facility Plan.
- (ll) **Sewer Service Charge** is a service charge levied on users of the wastewater collection and treatment facilities for payment of capital expenses as well as the operation, maintenance costs, and replacement of said facilities.

- (mm) **Sewer System** means the common sanitary sewers within a sewerage system that are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual structures or from private property, and which include service connection “Y” fittings designed for connection with those facilities. The facilities which convey wastewater from individual structures, from private property to the public sanitary sewer, or its equivalent, are specifically excluded from the definition of “sewerage collection system”; except that pumping units and pressurized lines for individual structures or groups of structures may be included as part of a “sewer system” when such units are cost-effective and are owned and maintained by the City.
- (nn) **Sewerage System** means all structures, conduits and pipes, by which sewage is collected, treated, and disposed of, except plumbing inside and in connection with buildings served, and service pipes, from building to street main.
- (oo) **Slug Load** shall mean any substance released at a discharge rate and/or concentration that causes interference to wastewater treatment processes or plugging or surcharging of the sewer system.
- (pp) **Standard Methods** shall mean the examination and analytical procedures set forth in the most recent edition of “Standard Methods of the Examination of Water, Sewage, and Industrial Wastes”, published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation.
- (qq) **Storm Drain** (sometimes termed “storm sewer”) shall mean a drain or sewer for conveying surface water, groundwater, subsurface water, or unpolluted water from any source.
- (rr) **Stormwater Runoff** shall mean that portion of the rainfall that is collected and drained into the storm sewers.
- (ss) **Suspended Solids (TSS)** shall mean that either float on the surface of, or are in suspension in, water, wastewater, septage, or other liquids, and that is removable by laboratory filtering as prescribed in “Standard Methods” and is referred to as nonfilterable residue.
- (tt) **Toxic Discharges** means a discharge containing substance or mixture of substances which, through sufficient exposure, or ingestion, inhalation, or assimilation by an organism, either directly from the environment or indirectly by ingestion through the food chain, will, on the basis of information available to the City, cause death, disease, behavioral or immunological abnormalities, cancer, genetic mutations, or development or physiological malfunctions, including malfunctions in reproduction or physical deformations, in such organisms or their offspring.
- (uu) **User** means any entity connected to the sewer system of the City of Hillsboro, including Public Users, Residential Users, and Industrial Users.
- (vv) **User Classes** are categories of users having similar flows and water characteristics; that is, levels of biochemical oxygen demand, suspended solids, nitrogen, etc. For the purposes of this ordinance, there shall be four user classes: residential, commercial, industrial, and public authority.

- (ww) **Wastewater Facilities** shall mean the structures, equipment and processes required to collect, carry away, store, and treat domestic and industrial waste and septage and dispose of the effluent and sludge.
- (xx) **Wastewater Treatment Works** shall mean an arrangement of devices and structures for treating wastewater, septage, industrial waste and sludge. Sometimes used as synonymous with sewage treatment facility.
- (yy) **Watercourse** shall mean a natural or artificial channel for the passage of water, either continuously or intermittently.
- (zz) **WPDES:** Wisconsin Pollutant Discharge Elimination System permit, issued per NR210.

### **Section 9.2.3 Management, Operation and Control**

- (a) **Authority.** The management, operation and control of the wastewater facilities of the City of Hillsboro is vested in the Common Council; all records, minutes and all written proceedings thereof shall be kept by the City Clerk; the City Clerk shall keep all the financial records.
- (b) **Construction.** The Common Council shall have the power to construct wastewater treatment facilities, pumping stations and sewer lines for public use, and shall have the power to lay sewer pipes in and through the alleys, streets and public grounds of the City; and generally, to do all such work as may be found necessary or convenient in the management of the wastewater facilities. The Common Council shall have power by themselves, their officers, agents and representatives to enter upon any land for the purpose of making examination in the performance of their duties under this Chapter, without liability therefore; and the Common Council shall have power to purchase and acquire for the City any real and personal property which may be necessary for construction of the wastewater facilities, or for any repair, remodeling, or additions thereto.
- (c) **Condemnation of Real Estate.** Whenever the Common Council determines that any real estate or any easement is necessary to the wastewater facilities, and if a purchase agreement with the Owner is not possible, then the Common Council shall proceed pursuant to Chapter 32, Wis. Stats. If Federal Funds will be used for the project associated with the real estate or easement, Common Council shall also proceed in accordance with Uniform Relocation and Real Property Acquisition Policy Act of 1970.
- (d) **Title to Real Estate and Personalty.** All property, real, personal and mixed, acquired for the construction of the wastewater facilities, and all diagrams, papers, books and records connected therewith said wastewater facilities, and all buildings, machinery and fixtures pertaining thereto, shall be the property of the City of Hillsboro.

## Section 9.2.4 General Sewer Use Regulations

- (a) **General.** The rules, regulations, and sewer rates set forth in this Chapter shall be considered a part of the contract between the City and every person, company, or corporation who is connected to or uses the sewer system or wastewater treatment works. By connecting with the sewer system or wastewater treatment works every such person, company, or corporation shall be considered as expressing their assent to be bound thereby. If any of the rules and regulations of this Chapter, now or as later amended or adopted, are violated, the use or service shall be shut off from the building or place of such violation, even if two or more parties are receiving service through the same connection. The use or service shall not be re-established except by order of the Common Council and on payment of all arrears, expenses and charges of shutting off and putting on, and such other terms as the City may determine, and a satisfactory understanding with the violator that no further cause for complaint will arise. The Common Council may further declare any payment made for the service by the violator(s) to be forfeited and the same shall thereupon be forfeited. The City reserves the right to change these rules, regulations, and sewer rates from time to time as it may deem advisable and the right to make special rates and contracts in all proper cases.
- (b) **Plumber License Required.** No plumber, pipe fitter, or other person will be permitted to do any plumbing or pipe fitting work in connection with the sewer system without first receiving a license from the State of Wisconsin and obtaining permission from the City. All service connections to the sewer main shall comply with State plumbing code.
- (c) **Septic Tanks Prohibited.** From June 1, 2009, the use of septic tanks, holding tanks or any other private sewage disposal system within the sewer service area of the City shall not be permitted unless approved by the Common Council.
- (d) **Mandatory Hook-up.** The owner of each parcel of land within the City adjacent to a sewer main and on which exists a building usable for human habitation or in a block through which such system is extended, shall connect to such system by installing a building sewer exclusive to that parcel within three hundred sixty-five (365) days of notice in writing from the City. Upon failure to do so, the City may cause such connection to be made and bill the property owner for such costs. If such costs are not paid within thirty (30) days, such costs shall be assessed as a special tax against the property. The full cost of making the connection shall be the property owner's responsibility. In the alternative, the City at its option may impose a penalty for the period that the violation continues, after ten (10) days written notice to any owner failing to make a connection to the sewer system, of a penalty as set by the City Council from time to time. Upon failure to make such payment, said charge shall be assessed as a special tax against the property, all pursuant to Wis. Stat. sec. 281.45.
- (e) **Applications for Service.** Every person desiring to connect to the sewer system shall file an application in writing to the City Clerk on such form as is prescribed for that purpose. Such application forms will be furnished at the office of the City Clerk. The application must state fully and truthfully all the wastes which will be discharged. If the applicant is

not the owner of the premises, the written consent of the owner must accompany the application.

Application for sewer service is limited to parcels within the City limits unless a connection exists on June 1, 2009. Surcharged rates will apply to any non-City parcel accepted for service.

If it appears the the service applied for will not provide adequate service for the contemplated use, the City may reject the application. If the City approves the application, it shall issue a permit for services as shown on the application upon payment of the connection charge.

- (f) **Utility Responsibility.** It is expressly stipulated that no claim shall be made against the City or acting representative by reason of the breaking, clogging, stoppage, or freezing of any service pipes; nor from any damage arising from repairing mains, making connections or extensions or any other work that may be deemed necessary. The right is hereby reserved to cut off the service at any time for the purpose of repairs of any other necessary purpose, any permit granted or regulations to the contrary notwithstanding. Whenever it shall become necessary to shut off the sewer within any district of the City, the City Clerk shall, if practicable, give notice to each and every consumer within the affected area of the time when such service will be shut off.
- (g) **RV Dumping Stations.** Domestic waste holding tanks on Recreational Vehicles and trailers shall only be permitted to discharge at the wastewater treatment facility.
- (h) **Additional Authority.** The Common Council may at any time establish specific connection and lateral charges for any main not covered by other provisions in this ordinance or when the Common Council has made an extension and the Common Council has failed to provide lateral or connection charges. It is further provided that the Common Council may amend or alter any connection or lateral charge after its establishment under the terms of this Ordinance or previous Ordinance or Resolutions.

### **Section 9.2.5 User Regulations.**

- (a) **Independent Building Sewer Required.** Building sewers must be used exclusively by only one property. No user or owner shall allow other persons, other private sewers, or other services to connect to the sewer system through their property's building sewer. If two or more buildings are served by one building sewer, the City may enforce compliance for mandatory hook-up pursuant to Section 9.2.4(d).
- (b) **Maintenance of Building Sewer.** The property owner shall maintain the building sewer from the street main to the house, including all controls between the same, without expense to the City, except when they are damaged as a result of negligence or intentional willful misconduct by the City. All building sewers must be maintained free of defective conditions by and at the expense of the owner or occupant of the property.
- (c) **User to Repair Building Sewer.** All users shall keep their building sewers in good repair and protected from frost at their own risk and expense and shall prevent any unnecessary overburdening of the sewer system.

- (d) **Backflow Preventor.** All sewer services shall have a backflow prevention valve installed and maintained at the owner's expense.
- (e) **Vacating of Premises and Discontinuance.** Whenever premises served by the system are to be vacated, or whenever any person desires to discontinue service from the system; then the owner or user must notify the City Clerk in writing.
- (f) **User to Permit Inspection.** Every user shall permit the City or its duly authorized agent, at all reasonable hours of the day, to enter their premises or building to examine the pipes and fixtures, and the manner in which the drains and sewer connections operate; and they must at all times, frankly and without concealment, answer all questions put to them relative to its use, all in accordance with this Chapter and Wis. Stat. sec. 196.171.

## Section 9.2.6 Building Sewer Construction.

- (a) **Excavations.** An excavation permit shall be obtained before beginning work for laying building sewers or making repairs. All work shall be performed in accordance with Title 6 Chapter 2 of this Code, and the paving and the earth removed shall be deposited in a manner that will result in the least inconvenience to the public.  
No person shall leave any such excavation made in any street or highway open at any time without barricades; and, during the night, warning lights must be maintained at such excavations.  
In refilling the opening within the public right-of-way, after the pipes are laid, use aggregate base backfill placed in layers of not more than six (6) inches in depth, and each layer thoroughly compacted to prevent settling. In refilling the opening on private property, after the pipes are laid, use earth backfill placed in layers of not more than nine (9) inches in depth, and each layer thoroughly compacted to prevent settling. This work, together with the replacing of sidewalks, base course and paving, must be done so as to make the street as good, at least, as before it was disturbed, and satisfactory to the City. No opening of the streets for tapping the pipes will be permitted when the ground is frozen.
- (b) **Tapping the Mains.** Permission and approval from the City is required before any person may tap any public sewer or collection pipes. The kind and size of the connection with the pipe shall be that specified in the permit from the City, to ensure that new sewers and connections to the sewer system are properly designed and constructed.  
Pipes must be tapped on top and not within six (6) inches (15 cm) of a joint and not within twenty-four (24) inches (60 cm) of another lateral connection. All service connections to mains must comply with State plumbing code. Lateral connections to existing sewers shall be made into saddles and by coring the existing sewer or by inserting (cutting-in) a wye or tee into existing sewer. The wye or tee shall be of the same pipe material as the existing sewer. The lateral/tee connection shall be made with approved adaptors or couplings.

- (c) **Installation of Building Sewers (House Laterals).** All building sewers pipes (laterals) on private property will be installed in accordance with State of Wisconsin Administrative Code Chapter Comm 82 entitled “Design, Construction, Installation, Supervision, and Inspection of Plumbing,” especially Section Comm 82.30 entitled “Sanitary Drain Systems.”  
All laterals, building sewers, and/or private interceptor main sewer shall be inspected by the City pursuant to Comm82.21 Wis. Admin. Code upon completion of placement of the pipe and before backfilling and tested before or after backfilling.
- (d) **Cleanwater Connection Prohibited.** No person shall make connections of roof downspouts, foundation drains, sump pumps, yard drains, or other sources of surface runoff or groundwater to a building sewer or building drain that is connected directly or indirectly to the public sewer. Any existing connections of surface runoff or groundwater shall be disconnected within sixty (60) days of written notice from the City.
- (e) **Inspection of Connection.** The applicant for connection shall notify the City Clerk when the building sewer is ready for inspection and connection to the public sewer. The actual connection shall be made under the supervision of the City.

## Section 9.2.7 Extension of Sewer Mains.

The City shall extend sewer mains in accordance with the following charges and the following conditions:

- (a) **Application.** When an extension of a sewer main is requested by the prospective user, said person should make an application for such an extension in writing to the City by filing of a written application. After the filing of such an application, the Common Council shall first determine the logical location of the next manhole or manholes. Next, the Council shall determine the length and location of the extension, taking into consideration the prospective demands for service, the capacity of downstream facilities, and the orderly development of the particular area. The Council shall then refer the proposed project to the Plan Commission for review and recommendation. After such review and recommendation, if any, the Common Council shall act on the application. The minimum length of an extension shall be the distance to the next manhole. All sewer extensions shall be constructed in compliance with local and state laws, ordinances and regulations.
- (b) **Payment by Users.** The person who requests the extension shall pay the entire cost of said extension including the manhole or manholes that are part of the extension.
- (c) **Payment of Costs.** The Common Council may recoup the costs of sewer main extensions through entering a developer’s agreement under Wis. Stat. 66.0821(2) or through special assessment under Wis. Stat. 66.0703.
- (d) **Future Users.** If a sewer main extension is financed by a developer(s) and a future sewer main extension is connected to the developer-financed extension within three (3) years of its completion, then PSC Chapter 187 Wis. Admin. Code shall apply.
- (e) **Construction.** If the City constructs the extension, full payment shall be made before construction begins unless otherwise agreed between the person requesting the extension

and the Common Council. If the developer constructs the extension, no construction shall begin until the Common Council, the City Engineer, and any necessary County and State departments approve the plans. When construction is complete and all tests have been satisfactorily completed and all necessary right-of-ways or easements have been recorded, the City shall assume responsibility for the extension.

- (f) In addition to the charge made as above provided to each lot, each user shall pay the connection charge and the full cost of the building sewer from the main to the user's building.

## **Section 9.2.8 Septage Disposal.**

- (a) **Application for Septage Disposal.** Between August 1 and September 1 of each year, each licensed disposer wishing to discharge septage to the City wastewater treatment works shall file a nonrefundable filing fee and an application in writing to the City Clerk on such form as is prescribed for that purpose. During the months of July and August, forms for such application will be furnished at the office of the City Clerk. The application must state fully and truthfully the type, frequency, quantity, quality and location of generated septage to be disposed in the wastewater treatment works. The forms prescribed for the purpose of documentation of the discharge will be furnished at the City Clerk's office and will include the following information:

- (1) Name, address and telephone number of the hauler.
- (2) License number.
- (3) Type of septage.
- (4) Quantity of septage.
- (5) Estimated quality of septage.
- (6) Location, date, time and feed rate of discharge.
- (7) Source of septage.
- (8) Name and address of septage generator.
- (9) Other information as required by the City.

During the month of September, the City will evaluate the applications and make a determination as to the amount and conditions of septage disposal. The Common Council shall approve or reject all applications by October 1 of each year. If the City cannot accept all the proposed septage disposal, then consideration shall be given first to those generators of septage that are within the sewer service and holding tank service areas (see NR 205.07(2)(e) and (f)).

- (b) **Bond and Insurance Required.** The person(s) or party disposing waste shall furnish bond to the City in the amount of one-thousand dollars (\$1,000.00) to guarantee performance. Said performance bond shall be delivered to the City Clerk prior to the issuance of the permit hereunder. Any person or party disposing of septage agrees to carry public liability insurance in an amount not less than one hundred thousand dollars (\$100,000.00) to protect any and all persons or property from injury and/or damage caused in any way or manner by any act, or failure to act, by any of his employees. The



person(s) shall furnish a certificate certifying such insurance to be in full force and effect. All City approvals for septage disposal shall have the condition that any time the sewerage system has operational problems, maintenance problems or threat of WPDES permit violations that are indirectly or directly related to septage disposal, the City may immediately restrict septage disposal until such time as corrective action or mitigative measures have been taken.

- (c) **Septage Acceptance Location.** Septage shall only be discharged to the City’s sewerage system by City-approved and State of Wisconsin licensed disposers and at locations, times and conditions as specified by the City. Septage discharges to the receiving facility at the wastewater treatment facility shall be limited to the posted, normal working hours of the facility. Documentation of the discharge shall be submitted to the City Clerk within one (1) working day of discharge.

**(d) Summary of Sewer Service Charges.**

(1) Category A Users.

Fixed Minimum Charge:	\$15.40 per customer per month
Volume Charges:	\$8.97 per 1,000 gallons

(2) Category B Users.

Fixed Minimum Charge:	\$15.40 per customer per month
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Whitehall:

Volume Charges:	\$8.97 per 1,000 gallons
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Surcharges:

BOD	\$0.24 per lb over 225 lbs/day
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Suspended Solids	\$0.12 per lb over 175 lbs/day
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Phosphorus	\$9.63 per lb over 10 lbs/day
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All Other Users:

Volume Charges:	\$8.97 per 1,000 gallons
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Surcharges:

BOD	\$0.24 per lb over 250 lbs/day
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Suspended Solids	\$0.12 per lb over 250 lbs/day
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Phosphorus	\$9.63 per lb over 8 lbs/day
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- (e) Persons obtaining permission for disposing of septic tank sludge or holding tank sewage shall be charged as follows:

(1) Septic tank sludge:	\$56.05 per 1,000 gallons
	+ \$24.20 per load – Administrative Fee

(2) Holding tank sludge:	\$13.88 per 1,000 gallons
	+ \$24.20 per load – Administrative Fee

## Section 9.2.9 Discharge Regulations.

- (a) **General Discharge Prohibitions.** No person shall contribute or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater facilities of the City:
- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any way to the operation of the wastewater facilities or wastewater treatment works.
  - (2) Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system.
  - (3) Any wastewater having a pH less than 6.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the system unless the system is specifically designed to accommodate such wastewater.
  - (4) Any wastewater containing arsenic, cadmium, copper, chromium, chloride, cyanide, lead, mercury, nickel, zinc or other toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in special agreements, State or Federal Categorical Pretreatment Standards.
  - (5) Any noxious or malodorous liquids, gases or solids which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
  - (6) Any substance that may cause the wastewater treatment works effluent, treatment residues, sludge or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
  - (7) Any substance that will cause violations of the WPDES and/or other disposal system permits.
  - (8) Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
  - (9) Any wastewater having a temperature that will inhibit biological activity in the wastewater treatment works resulting in interference; but in no case, wastewater with a temperature at the introduction into the public sewer that exceed 120°F unless the wastewater facilities are designed to accommodate such temperature.
  - (10) Any slug load, which shall mean any pollutant, including oxygen-demanding pollutants (BOD), released in a single extraordinary discharge episode of such volume or strength as to cause interference to the wastewater treatment works.
  - (11) Any unpolluted water including, but not limited to, non-contact cooling water.
  - (12) Any wastewaters that may be acutely or chronically toxic to aquatic life or wild and domestic animals.

- (13) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceed limits established by the City in compliance with applicable State and Federal regulations.
- (14) Any wastewater that causes a hazard to human life or creates a public nuisance.
- (15) Any storm water, surface water, groundwater, roof run-off or surface drainage or any other connections from inflow sources to the public sewer. Such waters may be discharged to a storm sewer or other waterway with permission of the City.

(b) **Limitations on Wastewater Strength.**

- (1) National categorical pretreatment standards shall, as promulgated by the U.S. Environmental Protection agency, be met by all dischargers of the regulated industrial categories.
- (2) State requirements and limitations on all facilities shall be met by all dischargers who are subject to such standards in any instance in which they are more stringent than other applicable requirements.
- (3) The Common Council reserves the right to amend this Chapter to provide for more stringent limitations or requirements on discharges to the wastewater facilities where deemed necessary to comply with the objectives set forth in this Chapter.
- (4) **Dilution.** No user shall increase the use of potable or process water in any way, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this Ordinance unless approved in writing by the City.
- (5) **Supplementary Limitations.** No user shall discharge wastewater containing concentrations of the following enumerated materials exceeding the following values unless prior approval is granted by the Common Council.

<u>Material</u>	<u>Concentration (mg/L)</u>
Biochemical Oxygen Demand	250 mg/L
Suspended Solids	300 mg/L
Fats, Oils and Grease (FOG)	100 mg/L
Phosphorus	8 mg/L

The City may also impose mass limitations on users that are using dilution to meet the Pretreatment Standards or requirements of this Ordinance or in other cases where the imposition of mass limitations is deemed appropriate by the City.

- (6) **Accidental Discharges.** Each user shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this Ordinance. Where necessary, facilities to prevent additional discharge of prohibited materials shall be provided and maintained at the user’s cost and expense. Detailed plans showing facilities and operating procedures shall be submitted to the City for review, and shall be approved by the City before construction of the facility. Review and approval of such plans and operating procedures by the City shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this Ordinance.

Discharge shall notify the City immediately upon the occurrence of a “slug load” or accidental discharge of substances prohibited by this Ordinance. The notification

shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any user who discharges a slug load or prohibited materials shall be liable for any expense, loss or damage to the City's wastewater facilities on wastewater treatment works, in addition to the amount of any forfeitures imposed on the City on account thereof under State or Federal law.

Signs shall be permanently posted in conspicuous places on industrial user's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

- (7) **Grease Interceptors.** All Food Service Facilities shall provide indoor or outdoor grease interceptors per Comm 82.34(5). Documentation on maintenance shall be provided to the City on request. Abnormal sewer or lift station maintenance caused by discharge of grease shall be the responsibility of the discharger.
- (8) **Special Agreements.** No statement contained in this article shall be construed as prohibiting any special agreement between the City and any person whereby an industrial waste of unusual strength or character may be admitted to the wastewater treatment works, either before or after pretreatment, provided that there is no impairment of the functioning of the wastewater treatment works by reason of the admission of such wastes, and no extra costs are incurred by the City without recompense by the person, provided that all rates and provisions set forth are complied with.

## Section 9.2.10 Sewer User Charge System.

- (a) **Additional Definitions.** The following terms shall have the following meaning under this Ordinance:
  - (1) **Debt Service Charge** shall mean all costs associated with repayment of debts incurred for the construction and/or rehabilitation of wastewater collection system and treatment facilities.
  - (2) **Normal Domestic Strength Wastewater** shall mean wastewater with concentrations of BOD<sub>5</sub> no greater than 250 milligrams per liter (mg/L), suspended solids no greater than 300 milligrams per liter (mg/L) and phosphorus no greater than 8 milligrams per liter (mg/L).
  - (3) **Normal User** shall mean a user whose contributions to the sewerage system consist only a normal domestic strength wastewater originating from a house, apartment, or other living quarters occupied by a person or persons constituting a distinct household, business or commercial enterprise.
  - (4) **Operation and Maintenance (O&M) Costs** shall mean all costs associated with the operation and maintenance of the wastewater collection and treatment facilities.

These costs, including costs associated with clear water flows (I/I), shall be divided proportionately among the various classes of sewer users.

- (5) **Replacement Costs (R)** shall mean all costs necessary to accumulate the resources as required to maintain capacity and performance during the design life of the facility. Two separate, segregated, distinct Replacement Funds shall be established. The Treatment Replacement Fund shall be used only for replacement of equipment at the Wastewater Treatment Works. The Collection System Replacement Fund shall be used only for replacement or rehabilitation of sanitary sewers.
- (6) **Sewer Service Charge** is a service charge levied on users of the sewer system for payment of Debt Service, Operation and Maintenance costs and Replacement of said facilities.
- (7) **Significant Industrial User** means a user whose contributions to the sewerage system include process wastewater with concentrations of BOD<sub>5</sub> greater than 250 milligrams per liter (mg/L), total suspended solid greater than 300 milligrams per liter (mg/L), FOG greater than 100 milligrams per liter (mg/L), pH below 6.0 or above 9.0 and/or phosphorus greater than 8 milligrams per liter (mg/L). The Common Council shall establish the limitations applicable and the parameters and frequency for metering flow and sampling and analyzing wastewater for each Significant Industrial User.
- (b) **Policy.** It shall be the policy of the City to obtain sufficient revenues to pay the costs for the debt service, operation and maintenance of the wastewater facilities, including a replacement fund, through a system of sewer service charges as defined in this section. The system shall assure that each user of the wastewater facilities pays their proportionate share of the cost of such facilities.
- (c) **Connection Charge.** Persons attaching to a public sewer main shall have the building sewer from the sewer main installed at their own expense and shall pay a connection charge as follows:
 

Residential (Single family)	\$500.00
Residential (Multiple family per unit)	\$250.00
Churches	\$400.00
Commercial & Industrial (Domestic only)	\$500.00
Motels & Laundromats	\$600.00
Hospitals & Clinics	\$2,500.00
Schools	\$2,500.00
- (d) **Basis for Sewer Service Charge.** The sewer service charge shall be based on two parts, the Fixed Meter Charge plus the Sewer Use Charge.  
The Fixed Meter Charge and the Sewer Use Charge shall be sufficient to pay the costs of net Debt Service for capital costs, the Replacement Funds and fixed Operation and Maintenance expenses. The rates in this ordinance shall be reviewed by the Common Council not less than biennially. Rates shall be adjusted, as required, to reflect the actual volume of water used, number and size of users and actual costs. Users shall be notified annually of the portion of service charges attributable to debt service and operation, maintenance, and replacement.

- (e) **Fixed Meter Charge.** A Fixed Meter Charge (FMC) is hereby imposed upon each lot, parcel of land, building or premises served by the sewerage system or otherwise discharging sewage, including non-domestic and industrial wastes, into the system. Such Fixed Meter Charge shall be payable as herein provided and shall be on the basis of the size of the water meter in with the table in Appendix A.
- (f) **Sewer Use Charge.** A Sewer Use Charge is hereby imposed on all users of the sewerage system based upon the metered water used thereon or therein as calculated by the Water Utility. This charge shall be computed by dividing the proposed net yearly debt service, operation, maintenance and replacement budgets as provided in this Ordinance by the previous year's billable water usage. Any refrigeration, air conditioning/humidification system or industrial cooling water not entering the sewerage system shall not be used in computing the Sewer Use Charge if a separate meter is installed. The user of such system shall be responsible for furnishing, installing and maintaining the necessary meter. Such Sewer Use Charge shall be payable as hereinafter provided and in an amount determinable as follows:
- (1) **Category A** is defined as normal or domestic strength wastewater having organic concentrations of biochemical oxygen demand (BOD<sub>5</sub>) no greater than 250 milligrams per liter (mg/L) and total suspended solids no greater than 300 milligrams per liter (mg/L). The Sewer Service Charge for Category A wastewater shall be established by ordinance of the Common Council from time to time and notice of any rate established shall be provided at least one (1) month before the change is effective.
  - (2) **Category B** is defined as wastewater having organic concentrations of Biochemical Oxygen Demand (BOD<sub>5</sub>) greater than 250 milligrams per liter (mg/L), Phosphorus (P) greater than 8.0 milligrams per liter (mg/L) and/or total suspended solids (TSS) greater than 300 milligrams per liter (mg/L). The minimum Category B charge will be based on a concentration of 250 mg/L BOD<sub>5</sub>, 8.0 mg/L P and 300 mg/L TSS. The Sewer Service Charge for Category B wastewater shall be established by ordinance of the Common Council from time to time and notice of any rate established shall be provided at least one (1) month before the change is effective.
  - (3) **Category C** is defined as septage or holding tank wastewater that has organic concentrations of biochemical oxygen demand (BOD<sub>5</sub>) greater than 250 milligrams per liter (mg/L) and/or total suspended solids (TSS) greater than 300 milligrams per liter (mg/L). Charges will be based on the unit prices provided in the current rate schedule plus an administrative charge of \$25.00 per load. It will be assumed that holding tank wastewater has a BOD<sub>5</sub> of 600 mg/L and a TSS of 1,800 mg/L and septic tank wastewater has a BOD<sub>5</sub> of 5,000 mg/L and TSS of 15,000 mg/L unless an actual analysis is furnished by the discharger. The Sewer Service Charge for Category C wastewater shall be established by ordinance of the Common Council from time to time and notice of any rate established shall be provided at least one (1) month before the change is effective.

- (4) **RV Dumping Stations.** Sewage dumping stations serving domestic waste holding tanks on Recreational Vehicles and trailers shall pay a fee as set by the Common Council from time to time.
- (g) **Exceedance Charge.** Significant Industrial Users are subject to Exceedance Charges for process wastewater discharges that exceed the limitations established for their operation. Exceedance Charges for process wastewater discharges that exceed the limitations established for their operation. Exceedance Charges are in addition to the Sewer Use Charges and are determined as follows:

<b>Parameter</b>	<b>Units</b>	<b>Limit</b>	<b>Exceedance Charge</b>
Flow	GPD	Peak Day	\$50.00 per day
Flow	GPD	Weekly Average	\$100.00 per week
BOD	lbs/day	Peak Day	\$50.00 per day
BOD	lbs/day	Weekly Average	\$100.00 per week
TSS	lbs/day	Peak Day	\$20.00 per day
TSS	lbs/day	Weekly Average	\$50.00 per week
P	lbs/day	Peak Day	\$20.00 per day
P	lbs/day	Weekly Average	\$50.00 per week
FOG	mg/L	Peak Day	\$10.00 per day
pH	s.u.	Composite Peak	\$10.00 per day

For exceedances greater than 1.5 times the limitation, charges shall be multiplied by 3.  
 For more than 10 total exceedances per month, charges shall be multiplied by 10.  
 For more than 10 total exceedances per month for 2 consecutive months, charges shall be multiplied by 100.

### **Section 9.2.11 Payment for Charges.**

- (a) **Payment and Penalty.** The Sewer Service Charge shall be for the corresponding period of the water bills, monthly for all users. Charges shall be payable to the City Clerk not later than twenty (20) days after the date of the invoice. A penalty of one percent (1%) per month shall be added to all bills not paid by the date fixed for final payment.
- (b) **Charges a Lien.** All sewage charges imposed shall be a lien upon the property serviced pursuant to Wis. Stat. sec. 66.0809(3) and shall be collected in the manner therein provided.
- (c) **Disposition of Revenue.** The amounts received from the collection of charges authorized by this Chapter shall be credited to a wastewater facilities account that shall show all receipts and expenditures of the wastewater facilities. Charges collected for replacement expenses shall be credited to a segregated, non-lapsing replacement account. These funds are to be used exclusively for replacement. When appropriated by the Common Council, the credits to the account shall be available for the payment of costs of wastewater

facilities consistent with NR 162. All present outstanding sewer system general obligation bonds, including refunding bonds, shall be paid from this fund as to both principal and interest.

## **Section 9.2.12 Industrial and Septage Wastewaters.**

- (a) **Discharge Conditions.** If any wastewaters or septage are discharged, or proposed to be discharged, to the wastewater facilities that contain substances or possess the characteristics enumerated in Section 9.2.9 and which, in the sole facilities, the Common Council may:
  - (1) Reject the wastes;
  - (2) Require pretreatment to an acceptable condition for discharge to the sewer system;
  - (3) Require control over the quantities and rates of discharge;
  - (4) Require payment to cover the added cost of handling and treating the wastewater not covered by existing sewer charges under the provisions of Section 9.2.10(f)(3).
- (b) **Septage Discharges.** Septage discharged to the wastewater facilities shall be domestic origin only and septic tank wastes shall be segregated from holding tank wastes.
- (c) **Control Manholes.**
  - (1) Each person discharging industrial wastes into a public sewer shall construct and maintain one or more control manholes or access points to facilitate observation, measurement, and sampling their waste, excluding domestic sewage when feasible.
  - (2) Control manholes or access facilities shall be located and built in a manner acceptable to the City. If measuring devices are to be permanently installed, they shall be of a type acceptable to the City.
  - (3) Control manholes, access facilities, and related equipment shall be installed by the person discharging the industrial waste, at their expense, and shall be maintained by the person discharging the waste so as to be in safe condition, accessible, and in proper operating condition at all times. Plan for installation of the control manholes or access facilities and related equipment shall be approved by the City prior to the beginning of construction.
- (d) **Measurement of Flow.** The volume of flow used for computing the Sewer Use Charge for non-septage disposal shall be based upon the water consumption of the person as shown in the records of meter readings maintained by the City Water Utility unless approved wastewater flow meters are provided.
- (e) **Provision for Deductions.** In the event that a person discharging industrial waste into the public sewers produces evidence satisfactory to the City that more than ten percent (10%) of the total annual volume of water used for all purposes does not reach the public sewer, then the determination of the water consumption to be used in computing the wastewater volume discharged into the public sewer may be made a matter of agreement between the City and the industrial wastewater discharger.
- (f) **Metering of Wastewater.** Devices for measuring the volume of wastewater discharged may be required by the City if this volume cannot otherwise be determined from the



metered water consumption records. Metering devices for determining the volume of wastewater shall be installed, owned, and maintained by the person discharging wastewater. Following approval and installation, such meters may not be removed without the consent of the City.

(g) **Wastewater Sampling.**

- (1) Industrial wastes and septage discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration of said waste as specified by the City.
- (2) Samples shall be collected in such a manner as to be representative of the composition of the wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the City.
- (3) Laboratory analysis shall be the responsibility of the person discharging the wastewater or septage and shall be subject to the approval of the City or its duly authorized representatives. Every care shall be exercised in the collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken. All analysis shall be performed by a Wisconsin certified laboratory.

(h) **Pretreatment.** The Common Council may require the discharger to modify or eliminate wastes that are harmful to the structures, processes, or operation of the wastewater facilities. The discharger shall provide at their expense such preliminary treatment or processing facilities as may be required to render this waste acceptable for admission to the public sewers.

(i) **Grease and/or Sand Interceptors.** The Common Council may require the discharger to provide grease, oil, and sand interceptors, which shall be readily and easily accessible for cleaning and inspection. The discharger shall maintain the interceptors and shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal that are subject to review by the City. Any removal and hauling of the collected materials not performed by the discharger's personnel must be performed by currently licensed disposal firms.

(j) **Analysis.**

- (1) All measurements, tests, and analyses of the characteristics of water, waste, and septage to which reference is made in the Ordinance shall be determined in accordance with the latest edition of "Standard Methods". Sampling methods, locations, times, durations, and frequencies are to be determined on an individual basis subject to approval by the City.
- (2) Determination of the character and concentration of the industrial wastewater shall be made by the person discharging them or their agent, as designated and required by the City. The City may also make its own analyses of the wastes and these determinations shall be used as a basis for charges. If the person discharging the waste contests the determination, the City may elect to have an independent laboratory determine the character and concentration of the waste. Said independent laboratory shall be certified under NR 149 and be acceptable to both the City and the person discharging the waste. All costs incurred by the

independent laboratory in making the determination shall be assumed by the discharger.

- (k) **Submission of Information.** Plans, specifications, and any other pertinent information relating to proposed flow equalization, pretreatment, of wastewater processing facilities shall be submitted for review or the City Engineer prior to the start of their construction if the effluent from such facilities is to be discharged into the public sewers.
- (l) **Submission of Basic Data.** Within three (3) months after the effective date of this Ordinance, each person who discharges industrial wastes to a public sewer shall prepare and file with the City, a report that shall include pertinent data relating to the quantity and characteristics of the waste discharged to the sewerage system. The City shall be notified sixty (60) days in advance of any plans that change the discharge by more the fifteen percent (15%) of flow or strength. Such a request shall be evaluated as provided in Section 9.2.12(a). Similarly, each person desiring to make a new connection to a public sewer for the purpose of discharging industrial wastes shall prepare and file with the City a report that shall include actual or predicted data relating to the quantity and characteristics of the waste to be discharged.

### **Section 9.2.13      Annual Audit.**

The City shall have conducted an independent Annual Audit, the purpose of which shall be to maintain the proportionality between users and user classes of the sewer user charge system and to ensure that adequate revenues are available relative to increasing operation, maintenance and replacement costs and debt service charges. The findings and recommendations of this audit shall be available for public inspection.

### **Section 9.2.14      Violations and Penalties.**

- (a) **Damages.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure or equipment that is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.
- (b) **Written Notice of Violation.** Any person connected to the wastewater facilities found to be violating a provision of this Chapter shall be served by the City with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. In the event of an emergency the notice may be verbal.

Any licensed disposer discharging to the wastewater facilities found to be violating a provision of this ordinance or any conditions of the City's approval for septage disposal may have their approval immediately revoked. This revocation shall be done in writing and state the reasons for revoking the septage disposal approval.

- (c) **Deleterious Discharge.** Any person found to be responsible for accidentally allowing deleterious discharge into the wastewater facilities which causes damage to the facilities and/or receiving water body shall, in addition to a forfeiture, pay the amount to cover all damages, both of which will be established by the Common Council.
- (d) **Discharge Reporting.** Any person responsible for a discharge that may have a detrimental impact on the sewerage system shall immediately report the nature and amount of the discharge to the City Clerk.
- (e) **Liability to City for Losses.** Any person violating any provision of this Chapter shall become liable to the City for any expense, loss, or damage occasioned by reason of such violation that the City might suffer as a result thereof.
- (f) **Damage Recovery.** The City shall have the right of recovery from all persons, any expense incurred by said system for the repair or replacement of any part of the wastewater facilities damaged in any manner by any person by the performance of any work under their control, by any negligent acts.
- (g) **Penalties.**
  - (1) Any person who violates any of the provisions of this Chapter or applicable City regulations, who connects a service pipe or discharges without first having obtained a permit, or who shall violate any provisions of the Wisconsin Statutes, Wisconsin Administrative Code, or any other materials which are incorporated by reference, upon conviction of such violation shall forfeit not less than \$50.00 nor more than \$500.00 and the costs of prosecution. The provisions shall not bar the City from enforcing the mandatory connection requirement of Section 9.2.4(d).
  - (2) Any person, partnership, or corporation, or any officer, agent, or employee thereof, who shall continue any violation after the lapse of the time limit provided for cessation of a violation, upon conviction of such continuing violation, shall forfeit not less than five hundred dollars (\$500.00), together with the costs of prosecution. In default of payment of such forfeiture and costs, said violator shall be imprisoned in the County Jail for a period not to exceed five (5) days. Each day in which any violation is continued beyond the aforesaid notice time limit shall be deemed a separate offense.
- (h) **Appeal Procedures.** Any user, affected by any decision, action, or determination, including cease and desist orders, made by the interpreting or implementing provisions of this Chapter may file a written appeal with the Common Council within ten (10) days of the date of such decision, action, or determination, setting forth in detail the facts supporting the user's appeal. The Common Council shall render a decision on the written appeal to the user in writing within thirty (30) days of receipt of appeal.

This section shall not apply to any citation or pending court action.

## **Section 9.2.15    Validity.**

- (a) **Repeal of Conflicting Ordinances.** This Chapter shall supersede all previous ordinances, resolutions, orders, or city regulations and shall repeal all parts thereof that may be in conflict with this Chapter. If there is any conflict between this Chapter and any applicable Wisconsin Statute, the Statute shall be controlling.
- (b) **Savings Clause.** If any provision of this Chapter is found invalid or unconstitutional or if in the application of this Chapter to any person or circumstance is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of this Chapter which can be given effect without the invalid or unconstitutional provision or application.
- (c) **Amendments.** The City, through its duly qualified governing body, may amend this Chapter in part or in whole whenever it may deem necessary.

# Title 9 - Chapter 3

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## Natural Gas

### Section 9.3.1 Grant of Authorization.

- (a) The City of Hillsboro, Vernon County, Wisconsin, does hereby grant to Alliant Energy (herein called "the Company"), a corporation organized and existing under the laws of the State of Wisconsin, its successors and assigns, upon the conditions hereinafter set forth, the exclusive right, authority and permission to construct, maintain, operate, enlarge and repair in the City of Hillsboro, a system for the furnishing and distribution of natural gas and natural gaseous fuels, and to use the highways, roads, streets, alleys, lanes, boulevards, public ways, and bridges in said City of Hillsboro, for constructing, maintaining, operating, enlarging and repairing its transmission and distribution pipe lines with all the necessary, usual or convenient manholes, valves, passage ways and appurtenances for the purpose of supplying and selling natural gases and natural gaseous fuels to said City of Hillsboro and its residents, and to any building, structure, factory, processing plant, industry or public or private house or any gas user therein.
- (b) This franchise is granted subject to such reasonable rules and regulations as the Common Council of the City of Hillsboro may by ordinance from time to time prescribe.

# TITLE 10

## Motor Vehicles and Traffic

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## Traffic and Parking

### Article A: General Provisions

#### Section 10.1.1 State Traffic Laws Adopted.

- (a) **Statutes Adopted.** Except as otherwise specifically provided in this Code, the statutory provisions in Chapters 110, 194, and 340 through 349, Wis. Stats., describing, and defining regulations with respect to vehicles and traffic, for which the penalty is a forfeiture only, exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment or exclusively state charges, are hereby adopted and by reference made a part of this Chapter as if fully set forth herein. The statutory sections listed shall be designated as part of this Code by adding the prefix "10.1." to each statute section number. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this Chapter. Any future amendments, revisions or modifications of the statutory regulations in Chapters 340 through 349 incorporated herein are intended to be made part of this Chapter in order to secure to the extent legally practicable uniform statewide regulation of vehicle traffic on the highways, streets and alleys of the State of Wisconsin. Any person who shall, within the City of Hillsboro, Wisconsin, violate any provisions of any Statute incorporated herein by reference shall be deemed guilty of an offense under this Section.
- (b) **Other State Laws Adopted.** There are also hereby adopted by reference the following Sections of the Wisconsin Statutes, but the prosecution of such offenses under this Chapter shall be as provided in Chapters 340 through 349, Wis. Stats., and the penalty for violation thereof shall be limited to a forfeiture as hereinafter provided in this Chapter:
- |        |   |
|--------|---|
| 941.01 | Negligent Operation of Vehicle Off Highway      |
| 943.11 | Entry into Locked Vehicle                       |
| 943.23 | Operating Motor Vehicles Without Owners Consent |
- (c) **Statutes Specifically Incorporated by Reference.** Whenever this Chapter incorporates by reference specific Sections of the Wisconsin Statutes, such references shall mean the Wisconsin Statutes of 1997-98 as from time to time amended, repealed or modified by the Wisconsin Legislature.
- (d) **General References.** General references in this Chapter to Wisconsin statutory sections or chapters describing or defining procedures or authority for enactment or enforcement

of local traffic regulations shall be deemed to refer to the most recent enactments of the Wisconsin Legislature describing or defining such procedures or authorities.

## **Section 10.1.2 State Administrative Code Provisions Adopted.**

- (a) **Administrative Regulations Adopted.** The following administrative rules and regulations adopted by the Secretary of the Wisconsin Department of Transportation and published in the Wisconsin Administrative Code, exclusive of any provisions therein relating to the penalties to be imposed, are hereby adopted by reference and made part of this Chapter as if fully set forth herein.

Wis. Adm. Code - Trans 305

Standards for Motor Vehicle Equipment

Wis. Adm. Code - Trans 326

Transportation of Hazardous Materials by Motor Vehicle

Wis. Adm. Code - Trans 304

Slow Moving Vehicle Emblem

- (b) **Non-Compliance Prohibited.** No person shall operate or allow to be operated on any highway, street or alley within the City a vehicle that is not in conformity with the requirements of Subsection (a) or the provisions of Sec. 110.075 and Chapter 347, Wis. Stats., incorporated by reference in Section 10.1.1 of this Chapter.

- (c) **Safety Checks.**

- (1) ***Operators to Submit to Inspection.*** When directed to do so by any law enforcement officer, the operator of any motor vehicle shall stop and submit such vehicle to an inspection and such tests as are necessary to determine whether the vehicle meets the requirements of this Section or that the vehicle's equipment is in proper adjustment or repair. No person, when operating a motor vehicle, shall fail to stop and submit such vehicle to inspection when directed to do so by any law enforcement officer as herein provided.
- (2) ***Authority of Officer.*** Any law enforcement officer of the City is hereby empowered whenever he or she shall have reason to believe that any provision of this Section is being violated to order the operator of the vehicle to stop and to submit such vehicle to an inspection with respect to brakes, lights, turn signals, steering, horns and warning devices, glass, mirrors, exhaust systems, windshield wipers, tires and other items of equipment.
- (3) ***Vehicle to be Removed From Highway.*** Whenever, after inspection as provided by this Section, a law enforcement officer determines that a vehicle is unsafe for operation, he or she may order it removed from the highway and not operated, except for purposes of removal and repair until the vehicle has been repaired as directed in a repair order. Repair orders may be in the form prescribed by the secretary of the Department of Transportation under Sec. 110.075(5), Wis. Stats., and shall require the vehicle owner or operator to cause the repairs to be made and

return evidence of compliance with the repair order to the department of the issuing officer within the time specified in the order.

(d) **Penalty.**

- (1) Penalty for violation of any provision of this Section, including the provisions of the Wisconsin Administrative Code, incorporated herein by reference, shall be as provided in Section 10.1.90, together with the costs of prosecution and applicable penalty assessment.
- (2) The Administrative Code sections adopted by reference in Subsection (a) above shall be designated as part of this Code by adding the prefix "10.1." to each statute or Administrative Code section number.

### **Section 10.1.3 Official Traffic Signs and Control Devices; Prohibited Signs, Signals and Markers.**

- (a) **Duty of City Administrator to Erect and Install Uniform Traffic Control Devices.** Whenever traffic regulations created by this Chapter, including a State of Wisconsin traffic regulation adopted by reference in Section 10.1.1, require the erection of traffic control devices for enforcement, the City Administrator with the cooperation of the Police Department, shall procure, erect and maintain uniform traffic control devices conforming to the Uniform Traffic Control Device Manual promulgated by the Wisconsin Department of Transportation, giving notice of such traffic regulation to the users of the streets and highways on which such regulations apply. Whenever State law grants discretion to local authorities in erecting or placement of a uniform traffic control device, devices shall be erected in such locations and in such a manner as, in the judgment of the City Administrator, will carry out the purposes of this Chapter and give adequate warning to users of the streets and highways of the City of Hillsboro.
- (b) **Code Numbers to be Affixed to Official Traffic Control Devices.** The City Administrator shall cause to be placed on each official traffic control sign a guide board, mile post, signal or marker erected under Subsection (a), a code number assigned by the Wisconsin Department of Transportation, and shall also place or direct the placing of code numbers on all existing official traffic control devices as required by the laws of the State of Wisconsin.
- (c) **Prohibited Signs and Markers in Highways.** No person other than an officer authorized by this Chapter to erect and maintain official traffic control devices or his or her designee shall place within the limits of any street or highway maintained by the City any sign, signal, marker, mark or monument unless permission is first obtained from the City Administrator or, where applicable, the State Highway Commission. Any sign, signal, marker, mark or monument placed or maintained in violation of this Subsection shall be subject to removal as provided in Subsection (d).
- (d) **Removal of Unofficial Signs, Markers, Signals and Traffic Control Devices.** The City Administrator may remove any sign, signal, marking or other device which is placed,

maintained or displayed in violation of this Chapter or state law. Any charge imposed against premises for removal of a prohibited or illegal sign, signal, marking or device shall be reported by the City Administrator to the Common Council for review and certification at its next regular meeting following the imposition of the charge. Any charge not paid on or before the next succeeding November 15 shall be placed upon the tax roll for collection as other special municipal taxes.

*State Law Reference:* Secs. 346.41 and 349.09, Wis. Stats.

## **Section 10.1.4      Registration Record of Vehicle as Evidence.**

When any vehicle is found upon a street or highway in violation of any provision of this Chapter regulating the stopping, standing or parking of vehicles and the identity of the operator cannot be determined, the owner, as shown by the ownership registration of the vehicle supplied by the Wisconsin Department of Transportation, or a comparable authority of any other state, shall be deemed to have committed the violation for purposes of enforcement of this Chapter and specifically Section 10.1.1 and shall be subject to the applicable forfeiture penalty; provided the defenses defined and described in Sec. 346.485(5)(b), Wis. Stats., shall be a defense for an owner charged with such violation.

## **Section 10.1.5      School Bus Warning Lights.**

- (a) Notwithstanding the provisions of Sec. 346.48(2)(b)(2), Wis. Stats., adopted by reference in Section 10.1.1 to the contrary and except as provided in Subsection (b) below, school bus operators shall use flashing red warning lights in residential and business districts when pupils or other authorized passengers are to be loaded or unloaded at locations at which there are no crosswalk or traffic signals so that pupils must cross the street or highway before being loaded or after being unloaded.
- (1) The operator of a school bus equipped with flashing red warning lights shall actuate such lights at least one hundred (100) feet before stopping to load or unload pupils or other authorized passengers and shall not extinguish such lights until loading or unloading is completed and persons who must cross the street or highway are safely across.
  - (2) The operator of a school bus shall use the flashing red warning lights when loading or unloading passengers from either side where the curb and sidewalk are laid on one (1) side of the road only.
  - (3) The operator of a school bus shall use the flashing red warning lights when loading or unloading passengers in a residential or business district when the passengers are to be loaded or unloaded at a location at which there are:
    - a. No traffic signals;

- b. Sidewalk and curb are laid on both sides of the street or highway; and
  - c. Such persons must cross the street or highway before being loaded or after being unloaded.
- (4) The operator of a motor vehicle which approaches from the front or rear of any school bus which has stopped on a street or highway when the bus is displaying flashing red warning lights shall stop the vehicle not less than twenty (20) feet from the bus and shall remain stopped until the bus resumes motion or the operator extinguishes the flashing red warning lights. The operator of a school bus, which approaches the front or rear of another school bus that has stopped and is displaying red warning lights, shall stop not less than twenty (20) feet from the other bus, display its red warning lights and remain stopped with red warning lights actuated until the other bus resumes motion or the other operator extinguishes the flashing red warning lights.
- (b) Pursuant to Sec. 349.21(2), Wis. Stats., the use of flashing red warning lights by school bus operators is prohibited when pupils or other authorized passengers are loaded or unloaded directly from or onto the school grounds or that portion of a right-of-way between the roadway and the school grounds designated by "school" warning signs as provided in Sec. 118.08(1), Wis. Stats.

## **Section 10.1.6      Blue Warning Lights on Police Vehicles.**

Pursuant to Secs. 346.03(3), 346.94(14), 346.95(3) and 347.25(1), (1m)(a) and (b) and (4), Wis. Stats., a marked police vehicle under Sec. 340.01(3)(a), Wis. Stats., may be equipped with a blue light and a red light which flash, oscillate or rotate. If the vehicle is so equipped, the lights shall be illuminated when the operator of the police vehicle is exercising the privileges granted under Sec. 346.03, Wis. Stats. The blue light shall be mounted on the passenger side of the vehicle and the red light shall be mounted on the driver side of the vehicle. The lights shall be designed and mounted so as to be plainly visible and understandable from a distance of five hundred (500) feet during normal sunlight and during hours of darkness. No operator of a police vehicle may use the warning lights except when responding to an emergency call or when in pursuit of an actual or suspected violator of the law, when responding to but not upon returning from a fire alarm or when necessarily parked on a highway in a position which is likely to be hazardous to traffic using the highway.

## **Section 10.1.7      Accident Reports.**

The operator of every vehicle involved in an accident shall, immediately after such accident, file with the Police Department a copy of the report required by Sec. 346.70, Wis. Stats., if any. If the operator is unable to make such report, any occupant of the vehicle at the time of

the accident capable of making such report shall have the duty to comply with this Section. Such reports shall be subject to the provisions and limitations of Secs. 346.70(4)(f) and 346.73, Wis. Stats., specifically that accident reports filed with this Section shall be for the confidential use of the Department and shall not be open to public inspection except as permitted by Sec. 346.73, Wis. Stats.

*State Law Reference:* Sec. 346.70, 346.73, Wis. Stats.

## **Section 10.1.8      Official Traffic Map.**

- (a) **Official Traffic Map Established.** There is hereby established an Official Traffic Map for the City of Hillsboro, upon which shall be indicated no parking areas, restricted parking areas, stop signs, arterial intersections, yield signs, special speed limits, one-way highways, school crossings and all other restrictions or limitations contained in this Code of Ordinances, as from time-to-time amended or modified by the City of Hillsboro when the laws of the State of Wisconsin require the erection or use of official traffic control devices to enforce such restrictions or limitations.
- (b) **Limitations Prohibited.** When official traffic control devices giving notice of the restrictions, prohibitions and limitations shown on the Official Traffic Map are erected and maintained in accordance with the provisions of this Section a violation of the restrictions, prohibition or limitation shown on the Official Traffic Map shall be violation of the provisions of this Code of Ordinances.
- (c) **Map to Be Maintained.** A copy of the Official Traffic Map shall be maintained and displayed in the office of the Police Department.
- (d) **Additions to Map.** The Common Council may from time to time make additions to or deletions from the Official Traffic Map and the Chief of Police shall keep such Official Traffic Map current.

<b>Section 10.1.9</b>	Reserved for Future Use.
<b>Section 10.1.10</b>	Reserved for Future Use.
<b>Section 10.1.11</b>	Reserved for Future Use.
<b>Section 10.1.12</b>	Reserved for Future Use.
<b>Section 10.1.13</b>	Reserved for Future Use.
<b>Section 10.1.14</b>	Reserved for Future Use.
<b>Section 10.1.15</b>	Reserved for Future Use.
<b>Section 10.1.16</b>	Reserved for Future Use.
<b>Section 10.1.17</b>	Reserved for Future Use.
<b>Section 10.1.18</b>	Reserved for Future Use.
<b>Section 10.1.19</b>	Reserved for Future Use.

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## Article B: Street Traffic Regulations

### Section 10.1.20 Operators to Obey Traffic Control Devices.

Every operator of a vehicle approaching an intersection at which an Official Traffic Control Device is erected in accordance with this Chapter shall obey the direction of such Official Traffic Control Device as required by the Wisconsin Statutes incorporated by reference in Section 10.1.1 of this Chapter. Operators of vehicles approaching a stop sign shall stop before entering a highway as required by Sec. 346.46, Wis. Stats. Operators approaching intersections at which a yield sign has been installed shall yield the right-of-way to other vehicles as required by Sec. 346.18(6), Wis. Stats.

### Section 10.1.21 Heavy Traffic Routes; Class B Highways Designated; Temporary Weight Limits.

- (a) **Definition.** For purposes of this Section, "heavy traffic" shall be defined as:
- (1) All vehicles not operating completely on pneumatic tires, and
  - (2) All vehicles or combination of vehicles designed or used for transporting property of any nature and having a gross weight of more than fifteen thousand (15,000) pounds. "Heavy traffic" does not include school buses, motor buses or recreational motor homes.
- (b) **Prohibited Routes.**
- (1) Heavy traffic is prohibited from using any City of Hillsboro street or highway not designated as a heavy traffic route.
  - (2) This Section shall not act to prohibit heavy traffic from using a City street or highway for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence which has an entrance on such street or highway, nor shall this Section apply to heavy traffic necessary to obtain orders, to make deliveries, or to move supplies or equipment for agricultural purposes. This exception shall be permitted for the period of time necessary to complete the above-described activities. This Section will not act to prohibit heavy traffic from using any City streets over which are routed state trunk highways. When being driven to the site of any construction, repair or maintenance



of electric, gas or water service, vehicles owned and operated by a public utility will be exempt from the provisions of this Section.

- (c) **Administration.** The Police Department shall administer this Section. Administration shall include:
- (1) **Posting of Signs.** Appropriate signs shall be posted giving notice of this Section and of the heavy traffic routes established herein. Yellow sign posts may also be used to designate heavy traffic routes.
  - (2) **Maps.** Maps of the City showing heavy traffic routes shall be prepared and shall be available upon request by heavy traffic operators and owners.
  - (3) **Construction Equipment.**
    - a. Heavy construction equipment may use City streets or highways not designated as heavy traffic routes provided that the closest access route is utilized.
    - b. City-owned or operated equipment is specifically excluded from the provisions of this Section.
- (d) **Liability.** Any operator, corporation, owner or agent whose heavy traffic vehicle damages any City streets or highways in violating this Section shall be liable and required to pay the City the cost of repair or replacement of the damaged street or highway.
- (e) **Heavy Traffic Routes and Class “B” Highways Designated.** The following highways or parts thereof within the jurisdiction of the City of Hillsboro are hereby designated heavy traffic routes and may be subject to the weight limitations imposed on Class “B” highways by the Wisconsin Statutes:
- (1) All state trunk highways and connecting streets.
  - (2) All county trunk highways and connecting streets, within the City limits as indicated by the appropriate highway markers.
  - (3) High Street to North limits of the City.
- (f) **Temporary or Seasonal Weight Limits.** There shall be a temporary weight restriction on City streets, roads and alleys within the City of Hillsboro as follows:
- (1) For any vehicle with one (1) rear axle there shall be a six (6) ton gross weight restriction.
  - (2) Any vehicle with two (2) rear axles less than eight (8) feet apart there shall be a ten (10) ton gross weight restriction.
  - (3) The effective date for these weight restrictions shall follow the same schedule as state and county roads and shall be posted.

**State Law Reference:** Sec. 349.17, Wis. Stats.

## **Section 10.1.22      Speed Limits.**

The provisions of Secs. 346.57, 346.58 and 346.59, Wis. Stats., relating to the maximum and minimum speed of vehicles are hereby adopted as part of this Section as if fully set forth herein except as hereinafter specified pursuant to Sec. 349.11(3)(c), Wis. Stats.

## **Section 10.1.23      Controlled Intersections Designated.**

- (a) **Complete Stops Required.** It shall be unlawful for any person driving or operating any motor vehicle or other vehicle to drive or cause the same to be driven into an intersection designated and declared by this Section to be a stop zone listed heretofore and signalized intersections without first coming to a full and complete stop.
- (b) **Designation of Location of Stop Signs.** In the interest of public safety, stop signs shall be installed at locations shown on the Official Traffic Map to control highways over which the City has exclusive jurisdiction.

**Section 10.1.24**                      **Reserved for Future Use.**

**Section 10.1.25**                      **Reserved for Future Use.**

**Section 10.1.26**                      **Reserved for Future Use.**

**Section 10.1.27**                      **Reserved for Future Use.**

**Section 10.1.28**                      **Reserved for Future Use.**

**Section 10.1.29**                      **Reserved for Future Use.**

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## Article C: Parking Regulations

### Section 10.1.30 Restrictions on Parking; Posted Limitations.

- (a) **Forty-eight (48) Hour Limitation.** No person, firm or corporation shall park or leave standing any automobile, truck, tractor, trailer or vehicle of any description on any public streets or public parking lots in the City of Hillsboro for a period of forty-eight (48) or more consecutive hours in the same location at any time, except that where more restrictive parking limits have been established, the more restrictive limits shall apply. When any law enforcement officer shall find a vehicle standing upon a public street or parking lot in violation of the provisions of this Section, he is authorized to move such a vehicle or to require the operator in charge thereof to move such vehicle to a position permitted under this Chapter. The law enforcement officer may cause said vehicle to be removed to a proper impoundment and storage area within the City where storage space is available and in such case the owner shall pay the costs of removing said vehicle and the storage fees on said vehicle before he may recover the possession thereof.
- (b) **Posted Limitations.**
  - (1) The Common Council may designate certain streets or portions of streets as no parking or no stopping or standing zones or as zones for parking by physically handicapped persons and may limit the hours in which the restrictions apply. The City shall mark, by appropriate signs, each zone so designated in accordance with the provisions of Sec. 349.13, Wis. Stats.
  - (2) Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, no person shall stop or park a vehicle in an established no stopping or standing zone when stopping or standing is prohibited. No vehicle shall be parked in a no parking zone during hours when parking is prohibited except physicians on emergency calls or as permitted by state law or elsewhere by this Code of Ordinances.
  - (3) The Chief of Police is hereby granted the authority, within the reasonable exercise of police power to prohibit, limit the time or otherwise restrict the stopping, standing or parking of vehicles beyond the provisions of Chapter 346, during a declared emergency. The Common Council shall have the authority to restrict the turning or movement of heavy traffic and to impose special weight limitations on any highway or portions thereof which, because of the weakness of the roadbed due

to deterioration or climatic conditions or other special or temporary conditions, would likely be seriously damaged or destroyed in the absence of any restrictions on heavy traffic movement or special weight limitations.

- (4) No prohibition, restriction or limitation on parking or restriction on movement or turning of heavy traffic and imposition of special weight limits is effective unless official traffic control devices have been placed or erected indicating the particular prohibition, restriction or limitation.
  - (5) After the parking limitations on any given street have expired, any change of location of not more than one (1) stall following expiration of the parking period allowed shall be and constitute a violation of this Chapter.
- (c) **Business District – Parking Restrictions.**
- (1) The Business District shall include both sides of Water Avenue between Mechanic Street and Spring Street and both sides of Mill Street from Water Avenue to Prairie Avenue.
  - (2) There shall be a two (2) hour maximum limitation on parking for all public parking stalls located in the Business District from 8:00 A.M. to 5:00 P.M. Each area shall be marked by appropriate signs.

### **Section 10.1.31 Parking Restrictions During Temporary Snow Removal or Street Maintenance.**

- (a) **Street Maintenance.** Whenever it is necessary to clear or repair a City roadway or any part thereof, the Public Works Department and/or Police Department shall post such highways or parts thereof with signs bearing the words "No Parking -Street Maintenance Work." Such, signs shall be erected at least two (2) hours prior to the time that street maintenance work is to be commenced. No person shall park a motor vehicle in violation of such signs.
- (b) **Temporary Parking Restrictions for Special Events.** For the period of time during which a community event is being held and upon proper resolution of the Common Council, all or any portion of a street, adjacent to the area at which the community event is being held, may be designated as a temporary no-parking zone. All such temporary no-parking zones shall be properly designated by an official no-parking sign placed or erected pursuant to the authority and direction of the Chief of Police. The operator of any motor vehicle shall not park or allow such vehicle to stand in such temporary no-parking zone.
- (c) **Parking During Special Snow Removal.** No person shall park, place or leave standing any automobile, truck or other vehicle on any street or public way after one (1) hour from the time such area has been designated and marked with temporary signs or barriers by the Public Works and/or Police Departments of the City indicating no parking due to special snow removal work.

### **Section 10.1.32 Stopping or Parking Prohibited in Certain Specified Places.**

- (a) **Parking Prohibited at All Times.** No person shall at any time park or leave standing any vehicle whether attended or unattended and whether temporarily or otherwise, in any of the following locations:
- (1) Within an intersection.
  - (2) On a crosswalk.
  - (3) On a sidewalk or terrace area, except when parking in such place is clearly indicated by official traffic signs or markers or parking meters. "Terrace or Sidewalk Area" means that area between the sidewalk and the nearest curb line running parallel or generally parallel thereto or in the absence of a sidewalk ten (10) feet beyond the curb line.
  - (4) Alongside or opposite any highway excavation or obstruction when such stopping or standing would obstruct traffic or when pedestrian traffic would be required to travel in the roadway.
  - (5) On the roadway side of any parked vehicle unless double parking is clearly indicated by official traffic signs or markers.
  - (6) Within a fire lane consisting of either the driveway between the front doors of a Fire Station and the public street or in such places properly designated and marked as fire lanes ordered by the Fire Chief.
  - (7) Upon any portion of a highway where and at the time when stopping or standing is prohibited by official traffic signs indicating the prohibition of any stopping or standing.
  - (8) In any place or manner so as to obstruct, block or impede traffic.
  - (9) Within ten (10) feet of a fire hydrant, unless a greater distance is indicated by an official traffic sign.
  - (10) Upon any portion of a highway where and at the time when parking is prohibited, limited or restricted by official traffic signs.
  - (11) Upon any bridge.
  - (12) Upon any street or highway within the City limits any vehicle which faces a direction different from the direction of normal traffic flow for the lane of traffic in which said vehicle is stopped or standing.
  - (13) Upon any terrace or sidewalk in the City at any time.
  - (14) In a loading zoning.
  - (15) Within four (4) feet of the entrance to an alley, private road or driveway.
  - (16) In any municipal park when said park is closed to the public.
- (b) **Parking in Driveways.** No person shall park or leave standing any motor vehicle in any private driveway without the permission of the owner or lessee of the property which such driveway is located, whether or not such driveway is posted to limit or restrict parking.

- (c) **Vehicles Not to Block Private Drive, Alley or Fire Lane.** No vehicle shall, at any time, be parked so as to unreasonably restrict the normal access to any private drive, alley or fire lane. Said access shall be deemed to be unreasonably restricted if any vehicle is parked within four (4) feet of either side of said access. Upon discovery by a police officer or upon complaint by the owner of any such blocked drive, alley or fire lane, the Chief of Police may order said vehicle towed from such position at the risk and expense of the owner of said vehicle.
- (d) **Parking Vehicle for Repair or to Display for Sale Prohibited.**
  - (1) No person shall stand or park a vehicle on any street, alley, public right-of-way or municipal parking lot in the City of Hillsboro for the purpose of repairing said vehicle or to display such vehicle for sale. No person shall park on any street or avenue any vehicles for the primary purpose of advertising.
  - (2) No person other than an owner and/or operator of a business located on business-zoned property engaged in the regular business of selling vehicles may display a vehicle for sale upon private premises unless the following conditions are met:
    - a. Consent to display the vehicle has been given by the owner or lessee of the premises; and
    - b. The owner of the vehicle is on the premises or resides there; and
    - c. The vehicle displayed for sale is parked entirely on the premises; and
    - d. The premises contains only one (1) vehicle displayed for sale; and
    - e. The advertisement or sign for sale of the vehicle is not larger than two (2) square feet.

*Cross-Reference:* Title 10, Chapter 5

*State Law Reference:* Sec. 346.52, Wis. Stats.

### **Section 10.1.33      Parking Reserved for Vehicles of Disabled.**

When official traffic signs indicating such restriction have been erected in accordance with Section 10.1.3 of this Chapter, no person shall park, stop or leave standing any vehicle upon any portion of a street, highway or public or private parking facility reserved for vehicles displaying special registration plates or identification cards or emblems issued by the Wisconsin Department of Transportation or, for vehicles registered in another jurisdiction, by such other jurisdiction designating the vehicle as one used by a physically disabled person.

### **Section 10.1.34      Leaving Keys in Vehicle Prohibited; Parking Vehicles With Motor Running.**

- (a) **Leaving Keys in Vehicle.** No person shall permit any motor vehicle to stand or remain unattended on any street, alley or other public area, except an attended parking area, unless either the starting lever, throttle, steering apparatus, gear shift or ignition of the vehicle is locked and the key for such lock is removed from the vehicle. Whenever any police officer shall find any vehicle standing with the key in the ignition in violation of this Section, such officer is authorized to remove such key from the vehicle and deliver the key to the Police Department for safe custody.
- (b) **Parking Vehicles With Motor Running.** No person shall park or leave standing any motor vehicle with the motor or refrigerator unit running for more than thirty (30) minutes within three hundred (300) feet of any residence within the City of Hillsboro between the hours of 10:00 p.m. and 7:00 a.m.

### **Section 10.1.35 Unattended Motorized Machinery.**

It shall be unlawful for any person, firm or corporation to permit any construction, compaction, earth-grading or farm machinery which is self-propelled and moves upon the surface of the earth and which is owned or controlled by him/her to stand for any period of time unattended without locking the ignition system or otherwise rendering said machinery inoperable so as to prevent any person unauthorized by the owner or individual in control thereof from starting said machinery.

### **Section 10.1.36 Angle Parking.**

- (a) The Common Council shall from time to time have certain streets or portions of streets marked with white lines to designate parallel or diagonal parking places. Angle parking or parking diagonally is prohibited on all the streets, alleys and highways of the City except as provided herein in designated angle parking stalls. All vehicles shall park parallel to, and within one (1) foot of, the curb except where streets and parking lots are so marked for angle parking.
- (b) No person shall at any time park any vehicle:
  - (1) In any direction other than the designated parking angle, where angle parking spaces are so designated and provided by appropriate markings.
  - (2) Backwards into angle parking spaces so designated and provided by appropriate markings.
  - (3) With a trailer attached or any vehicle longer than twenty (20) feet on any street where angle parking is so provided and allowed.

### **Section 10.1.37 Seasonal All-Night Parking Restrictions.**

- (a) Seasonal parking shall be in force from November 1 to April 1 and shall require that cars parked on streets within the City limits be parked on the odd side of the street on odd calendar days and the even side of the street on even calendar days; so as to establish alternate side parking. Signs must have been erected at or reasonably near the corporate limits of the City as provided in Sec. 349.13, Wis. Stats.
- (b) Between the hours of 2:00 a.m. and 6:00 a.m. there shall be no parking in the commercial area of the City. The commercial area is defined as:
  - (1) All State Highways
  - (2) Mechanic Street from Water Avenue to Pine Avenue
  - (3) Prairie Avenue from Garden Street to Mill Street
  - (4) Garden Street from Water Avenue to Prairie Avenue
  - (5) High Avenue from Spring Street to Mechanic Street
  - (6) Spring Street from Water Avenue to Prairie Avenue
- (c) All other areas of the City are deemed to be in the residential area. In residential areas from November 1 to April 1, alternate side parking shall apply and be restricted to the posted parking times as amended from time to time by Resolution of the City Council.

### **Section 10.1.38      Parking Prohibited During Certain Periods.**

When signs or parking meters are erected in any block giving notice thereof, no person shall park or leave standing any vehicle on any street or parts thereof for longer than thirty (30) minutes between 2:00 a.m. and 5:00 a.m., except temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

- (a) Mill Street from its intersection with High Avenue to its intersection with Water Avenue
- (b) Water Avenue from its intersection with Spring Street to its intersection with Mechanic Street.

### **Section 10.1.39      Parking Reserved for Vehicles of Disabled.**

- (a) When official traffic signs, indicating such restriction have been erected, no person shall park, stop or leave standing any vehicle upon any portion of a street, highway or public or private parking facility reserved for vehicles displaying special registration plates or identification cards or emblems issued by the Wisconsin Department of Transportation or, for vehicles registered in another jurisdiction, by such other jurisdiction designating, the vehicle as one used by a physically disabled person.
- (b) In addition, the Common Council may designate a portion of a parking lot, situated on private property and which is open for public parking, as zones for parking vehicles of physically handicapped persons. Such parking zones shall be so designated based upon a



request by the property owner and after receiving the recommendation of the Chief of Police and City Administrator. The Common Council shall determine who shall bear the cost of properly signing the designated parking zone. All such designated areas should be displayed and maintained on the Hillsboro Official Traffic Map.

### **Section 10.1.40 Unlawful Removal of Parking Citations.**

No person other than the owner or operator thereof shall remove a City parking citation from a motor vehicle.

### **Section 10.1.41 Operation of Motor Vehicles in Public Parking Lots.**

- (a) **Unlicensed Operators Prohibited.** No person who does not hold a valid operator's license shall operate a vehicle in any public parking lot or ramp or in any private parking lot or ramp held out for the use of parking for the general public.
- (b) **Traffic Regulations Applicable.** All provisions of Section 10.1.1 of this Chapter and of the Wisconsin Statutes and laws incorporated herein by reference shall be applicable on any public parking lot or ramp and on any private parking lot, road or ramp held out for use for the general public for parking or vehicular traffic.

### **Section 10.1.42 Removal of Illegally Parked Vehicles.**

- (a) **Hazard to Public Safety.** Any vehicle parked, stopped or standing upon a highway or public parking lot or ramp in violation of any of the provisions of this Chapter is declared to be a hazard to traffic and public safety.
- (b) **Removal by Operator.** Such vehicle shall be removed by the operator in charge, upon request of any law enforcement officer, to a position where parking is permitted or to a private or public parking or storage premises.
- (c) **Removal by Traffic Officer.** Any law enforcement officer after issuing a citation for illegal parking, stopping or standing of an unattended vehicle in violation of this Chapter, is authorized to remove such vehicle to a position where parking is permitted.
- (d) **Removal by Private Service.** The officer may order a motor carrier holding a permit to perform vehicle towing services, a licensed motor vehicle salvage dealer or a licensed motor vehicle dealer who performs vehicle towing services to remove and store such vehicle in any public storage garage or rental parking grounds or any facility of the person providing the towing services.
- (e) **Towing and Storage Charges.** In addition to other penalties provided in this Chapter, the owner or operator of a vehicle so removed shall pay the actual cost of moving, towing

and storage. If the vehicle is towed or stored by a private motor carrier, motor vehicle salvage dealer or licensed motor vehicle dealer, actual charges regularly paid for such services shall be paid. If the vehicle is stored in a public storage garage or rental facility, customary charges for such storage shall be paid. Upon payment, a receipt shall be issued to the owner of the vehicle for the towing or storage charge.

### **Section 10.1.43 Inoperable, Wrecked or Discarded Vehicles.**

- (a) **Storage Prohibited.** No person owning or having custody of any partially dismantled, nonoperable, wrecked, junked or discarded motor vehicle shall allow such vehicle to remain on any public street or highway, parking lot or ramp longer than forty-eight (48) hours after notification thereof by the Police Department. Any such vehicle not removed within fortyeight (48) hours is declared to be a public nuisance and may be removed as provided in Section 10.5.2.
- (b) **Exemptions.** This Section shall not apply to a motor vehicle in an appropriate storage place or depository maintained in a lawful place and manner authorized by the City of Hillsboro.

*Cross-Reference:* Section 10.5.1.

### **Section 10.1.44 Traffic and Parking Regulations on School District Grounds.**

Pursuant to the provisions of Sec. 118.105, Wis. Stats., the following regulations shall apply to the grounds of the Hillsboro Public School District located within the City of Hillsboro:

- (a) **Parking.** All parking on any grounds of the Hillsboro School District from 7:30 a.m. to 4:30 p.m. shall be restricted to areas designated for parking by the School Board. When signs are erected by the School Board giving notice of such restrictions, all persons shall park only in areas designated and signed for visitor parking. There shall be no parking on said grounds between 11:00 p.m. and 6:00 a.m., except when school functions extend past 11:00 p.m.; on such nights there shall be no parking one (1) hour after the function has concluded.
- (b) **Speed Limits.** No person shall, at any time, operate a motor vehicle upon any School District grounds at a speed in excess of fifteen (15) miles per hour.
- (c) **Vehicles Prohibited at Specified Times.** No person shall, at any time, operate a motor vehicle other than a school bus or emergency vehicle, in or upon any drive designated for

buses only during the hours of 7:00 a.m. to 9:00 a.m., and during the hours of 3:00 p.m. to 4:30 p.m. on any weekday during the months school is in session.

- (d) **State Traffic Forfeiture Laws Adopted.** All provisions of Chapters 340 to 349, Wis. Stats., describing and defining regulations with respect to vehicles and traffic for which the penalty is a forfeiture only, including penalties to be imposed and procedures for prosecution, are hereby adopted and by reference made a part of this Section as if fully set forth herein. Such statutory sections shall be designated as part of this Code by adding the prefix "10.1.44-" to each state statute section number. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Section.
- (e) **Miscellaneous Rules.**
  - (1) No person shall operate a motor vehicle on such school premises at a rapid or sudden acceleration with the intent of squealing tires or leaving tire marks.
  - (2) No person shall operate a motor vehicle on such premises across parking lot islands or parking lot dividers.
- (f) **Direction Signs.** No person shall enter, exit or drive a vehicle within a parking lot contrary to the directions as specified by signs and markings appearing therein.

**Section 10.1.45** Reserved for Future Use.

**Section 10.1.46** Reserved for Future Use.

**Section 10.1.47** Reserved for Future Use.

**Section 10.1.48** Reserved for Future Use.

**Section 10.1.49** Reserved for Future Use.

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### Article D: Miscellaneous Provisions

#### Section 10.1.50 Disturbance of the Peace With a Motor Vehicle.

(a) **Unnecessary Noise Prohibited.**

- (1) **Unnecessary Noise.** It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any loud, disturbing, or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public or private area in the City of Hillsboro.
- (2) **Mufflers.** Every motor vehicle operated upon a public way shall be equipped with a muffler in good and proper working order and be in constant operation so as to prevent excessive or unusual noise or annoying exhaust smoke.
- (3) **Use of Devices.** No person shall use or place upon any motor vehicle to be operated upon a public way any muffler cut-out, bypass or similar device. No device shall be used on any motor vehicle operated upon the public way to create unnecessary noise and disturbance.

(b) **Unnecessary Smoke Prohibited.** It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any smoke, gases, or odors which are disagreeable, foul, or otherwise offensive which may tend to annoy or disturb another in or about any public or private area in the City.

(c) **Unnecessary Acceleration and Display of Power Prohibited.** It shall be unlawful for any person to operate any vehicle, including motorcycles, all-terrain vehicles and bicycles, in such a manner as to cause, by excessive and unnecessary acceleration, the tires of such vehicle or cycle to spin or emit loud noises or to unnecessarily throw stones or gravel; nor shall such driver cause to be made by excessive and unnecessary acceleration any loud noise as would disturb the peace.

(d) **Disorderly Conduct with a Motor Vehicle.**

- (1) **Conduct Prohibited.** No person shall, within the City of Hillsboro, by or through the use of any motor vehicle, including but not limited to, an automobile, truck, motorcycle, minibike or snowmobile, cause or provoke disorderly conduct with a motor vehicle, cause a disturbance or annoy one or more persons, or disturb or endanger the property or the safety of another's person or property.
- (2) **Definition.** "Disorderly conduct with a motor vehicle" shall mean the engaging in violent, abusive, unreasonably loud conduct, or disturbing or endangering the property or the safety of another's person or property, or otherwise disorderly

conduct, including but not limited to, unnecessary, deliberate or intentional spinning of wheels, squealing of tires, revving of engine, blowing the horn, causing the engine to backfire or causing the vehicle, while commencing to move or in motion, to raise one or more wheels off the ground.

- (e) **Avoidance of Traffic Control Device Prohibited.** It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and travel across private property to avoid an official traffic control device, sign, or signal.
- (f) **Operation in Restricted Area Prohibited.** It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and park, stop, or travel upon or across any public or private property, parking lot, driveway, or business service area for any purpose except the official conduct of business located on said property without the consent of the owner or lessee of the property. This Section shall specifically include, but not be limited to:
  - (1) Public park property;
  - (2) Cemetery properties;
  - (3) School District property;
  - (4) Medical facilities;
  - (5) Funeral homes;
  - (6) Service stations;
  - (7) Grocery stores;
  - (8) Restaurants;
  - (9) Financial institutions; and
  - (10) Other similar-type businesses with service driveways or drive-up or drive-through facilities.
- (g) **Stopping and Parking Prohibited.** It shall be unlawful for any person to stop or park a motor vehicle in any manner on any public or private property or parking lot contrary to a regulatory sign posted thereon which may permit parking by certain persons and limits, restricts, or prohibits parking as to other persons without the consent of the owner or lessee of the property. Any vehicle parked in violation of this Section may be cited and/or removed or towed by the property owner at the vehicle owner's expense.

### **Section 10.1.51 Motor Vehicles on Pedestrian Ways and Overpasses.**

No person shall operate or park any motor vehicle on any sidewalk, pedestrian way or pedestrian overpass within the City of Hillsboro except municipal or county maintenance vehicles.

### **Section 10.1.52 School Crossing Guards.**

Pursuant to Sec. 349.215 Wis. Stats., those persons hired by the School District or Police Department to act as "School Crossing Guards" shall have the authority to stop vehicular traffic and to keep it stopped as long as necessary at their respective school crossings for the purpose of permitting school children to cross the street.

*State Law Reference:* Sec. 349.215, Wis. Stats.

### **Section 10.1.53      Driving Over Curbing or Safety Islands Prohibited.**

- (a) **Driving Over Curbing Prohibited.** It shall be unlawful for any motor vehicle to be driven or backed over any curbing in the City of Hillsboro.
- (b) **Driving Over Safety Zones or Islands Prohibited.** Whenever safety zones or safety islands are marked in accordance with the Wisconsin Uniform Traffic Control Device Manual, no operator of a vehicle shall at any time drive through or over a safety zone or safety island. Persons causing damage to curbing by driving over such curbing shall be responsible for the cost of such repairs.

### **Section 10.1.54      Use of Compression (Jake) Brakes Prohibited.**

No person shall use motor vehicle brakes within the City of Hillsboro that are in any way activated or operated by the compression of an engine of any such motor vehicle or any unit or part thereof.

### **Section 10.1.55      Sound-Producing Devices in Vehicles; Impoundment; Seizure and Forfeiture.**

- (a) **Sound-Producing Devices; Impoundment; Seizure and Forfeiture.**
  - (1) In this Section, "sound-producing device" does not include a piece of equipment or machinery that is designed for agricultural purposes and that is being used in the conduct of agricultural operations.
  - (2) A law enforcement officer, at the time of issuing a citation for a violation of Sec. 346.94(16), Wis. Stats., or a City ordinance in strict conformity with Sec. 346.94(16), Wis. Stats., or any other City ordinance prohibiting excessive noise, is authorized to impound any radio, electric sound amplification device or other sound-producing device used in the commission of the violation if the person

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charged with such violation is the owner of the radio, electric sound amplification device or other sound-producing device and has two (2) or more prior convictions within a three (3) year period of Sec. 346.94(16), Wis. Stats., or a local ordinance in strict conformity with Sec. 346.94(16), Wis. Stats., or any other City ordinance prohibiting excessive noise. The City authorizes the impoundment of a vehicle for not more than five (5) working days to permit the City authorities or their authorized agent to remove the radio, electric sound amplification device or other sound-producing device if the vehicle is owned by the person charged with the violation and the sound-producing device may not be easily removed from the vehicle. Upon removal of the sound-producing device, an impounded vehicle shall be returned to its rightful owner.

- (3) The City may recover the cost of impounding the sound-producing device and, if a vehicle is impounded, the cost of impounding the vehicle and removing the sound-producing device. Upon disposition of the forfeiture action for the violation of Sec. 346.94(16), Wis. Stats., or a local ordinance in strict conformity with Sec. 346.94(16), Wis. Stats., or any other local ordinance prohibiting excessive noise and payment of any forfeiture imposed, the sound-producing device shall be returned to its rightful owner.
- (4) The City may dispose of any impounded sound-producing device or, following the procedure for an abandoned vehicle under Sec. 342.40, Wis. Stats., any impounded vehicle which has remained unclaimed for a period of ninety (90) days after disposition of the forfeiture action.
- (5) This Subsection does not apply to a radio, electric sound amplification device or other sound-producing device on a motorcycle.
- (6) Notwithstanding Subsections (a)(1)-(5) above, the City authorizes a law enforcement officer, at the time of issuing a citation for a violation of Sec. 346.94(16), Wis. Stats., or a local ordinance in strict conformity with Sec. 346.94(16), Wis. Stats., or any other local ordinance prohibiting excessive noise, to seize any radio, electric sound amplification device or other sound-producing device used in the commission of the violation if the person charged with such violation is the owner of the radio, electric sound amplification device or other sound-producing device and has three (3) or more prior convictions within a three (3) year period of Sec. 346.94(16), Wis. Stats., or a local ordinance in strict conformity with Sec. 346.94(16), Wis. Stats., or any other local ordinance prohibiting excessive noise.
- (7) The City may impound a vehicle violating Subsection (a)(6) vehicle for not more than five (5) working days to permit the City or its authorized agent to remove the radio, electric sound amplification device or other sound-producing device if the vehicle is owned by the person charged with the violation and the sound-producing device may not be easily removed from the vehicle. Upon removal of the sound-producing device, an impounded vehicle shall be returned to its rightful owner upon payment of the reasonable costs of impounding the vehicle and removing the sound-producing device.

- (8) Any seized sound-producing device under Subsection (a)(6) shall be treated in substantially the manner provided in Sec. 973.075(3), 973.076 and 973.077, Wis. Stats., for property realized through the commission of any crime, except that the sound-producing device shall remain in the custody of the applicable law enforcement agency; a district attorney or City Attorney, whichever is applicable, shall institute the forfeiture proceedings; and, if the sound-producing device is sold by the law enforcement agency, all proceeds of the sale shall be retained by the City.
  - (9) The City may, following the procedure for an abandoned vehicle under Sec. 342.40, Wis. Stats., dispose of any impounded vehicle which has remained unclaimed for a period of ninety (90) days after disposition of the forfeiture action.
  - (10) This Subsection does not apply to a radio, electric sound amplification device or other sound-producing device on a motorcycle.
- (b) **Vehicle Owner's Liability for Radios or Other Electric Sound Amplification Devices.**
- (1) The owner of a vehicle involved in a violation of Sec. 346.94(16), Wis. Stats., shall be presumed liable for the violation as provided in this Section.
    - a. Notwithstanding Subsection (b)(1), no owner of a vehicle involved in a violation of Sec. 346.94(16), Wis. Stats., may be convicted under this Section if the person operating the vehicle or having the vehicle under his or her control at the time of the violation has been convicted for the violation under this Section or under Sec. 346.94(16), Wis. Stats.
  - (2) Any member of the public who observes a violation of Sec. 346.94(16), Wis. Stats., may prepare a written report indicating that a violation has occurred. If possible, the report shall contain the following information:
    - a. The time and the approximate location at which the violation occurred.
    - b. The license number and color of the motor vehicle involved in the violation.
    - c. Identification of the motor vehicle as an automobile, station wagon, motor truck, motor bus, motorcycle or other type of vehicle.
  - (3) Within twenty-four (24) hours after observing the violation, a member of the public may deliver a report containing all of the information in Subsection (b)(2) to a traffic officer of the county or municipality in which the violation occurred. A report which does not contain all of the information in Subsection (b)(2) shall nevertheless be delivered and shall be maintained by the county or municipality for statistical purposes.
    - a. Within forty-eight (48) hours after receiving a report containing all of the information in Subsection (b)(2), the traffic officer shall investigate the violation and may prepare a uniform traffic citation under Sec. 345.11 and, within seventy-two (72) hour after receiving such report, any traffic officer employed by the authority issuing the citation may personally serve it upon the owner of the vehicle.
    - b. If with reasonable diligence the owner cannot be served under paragraph (a), service may be made by leaving a copy of the citation at the owner's usual



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place of abode within this state in the presence of a competent member of the family who is at least fourteen (14) years of age and who shall be informed of the contents thereof. Service under this paragraph may be made by any traffic officer employed by the authority issuing the citation and shall be performed within seventy-two (72) hours after a report containing all of the information in Subsection (b)(2) was delivered to a traffic officer under paragraph (a) 1.

- c. If with reasonable diligence the owner cannot be served under paragraph (a) or (b) or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner's last-known address. Service under this paragraph shall be performed by posting the certified mail within seventy-two (72) hours after a report containing all of the information in Subsection (b)(2) was delivered to a traffic officer under paragraph (a)1. Except for owners who live outside of the jurisdiction of the issuing authority, service under this paragraph may not be performed unless service under paragraphs (a) and (b) has been attempted.
- (4) Defenses to the imposition of liability under this Section include:
- a. That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.
  - b. If the owner of the vehicle provides a traffic officer employed by the authority issuing the citation with the name and address of the person operating the vehicle or having the vehicle under his or her control at the time of the violation and sufficient information for the officer to determine that probable cause does not exist to believe that the owner of the vehicle was operating the vehicle or having the vehicle under his or her control at the time of the violation, then the owner of the vehicle shall not be liable under this Section or under Sec. 346.94 (16), Wis. Stats.
  - c. If the vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessor provides a traffic officer employed by the authority issuing the citation with the information required under Sec. 343.46(3), Wis. Stats., then the lessee and not the lessor shall be liable under this Section or under Sec. 346.94(16), Wis. Stats.
  - d. If the vehicle is owned by a dealer, as defined in Sec. 340.01(11), Wis. Stats., but including the persons specified in Sec. 340.01(11)(a) to (d), Wis. Stats., and at the time of the violation the vehicle was being operated by or was under the control of any person on a trial run, and if the dealer provides a traffic officer employed by the authority issuing the citation with the name, address and operator's license number of the person operating the vehicle or having the vehicle under his or her control on a trial run, then that person, and not the dealer, shall be liable under this Section or under the applicable provision of Sec. 346.94(16), Wis. Stats.
  - e. Notwithstanding Sec. 346.94(16)(b)6., Wis. Stats., this Section does not apply to the operation of a motorcycle.

(c) **Authority to Regulate Radios or Other Electric Sound Amplification Devices.**

- (1) Notwithstanding Sec. 346.94(16), Wis. Stats., the City provides that, except as provided in Sec. 347.38(1), Wis. Stats., no person may operate or park, stop or leave standing a motor vehicle while using a radio or other electric sound amplification device emitting sound from the vehicle that is clearly audible under normal conditions from a distance of fifty (50) or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition. Any person violating this Subsection may be required to forfeit a penalty as determined by Section 1.1.7.
- (2) Subsection (c)(1) may not apply to any of the following:
  - a. The operator of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm.
  - b. The operator of a vehicle of a public utility, as defined in Sec. 11.40(1)(a), Wis. Stats.
  - c. The operator of a vehicle that is being used for advertising purposes.
  - d. The operator of a vehicle that is being used in a community event or celebration, procession or assemblage.
  - e. The activation of a theft alarm signal device.
  - f. The operator of a motorcycle being operated outside of a business or residence district.

## **Section 10.1.56 Sound-Producing Devices in Vehicles; Impoundment; Seizure and Forfeiture.**

(a) **Sound-Producing Devices; Impoundment; Seizure and Forfeiture.**

- (1) In this Section, "sound-producing device" does not include a piece of equipment or machinery that is designed for agricultural purposes and that is being used in the conduct of agricultural operations.

## **Section 10.1.57 Substitutes for Buildings Prohibited.**

- (a) **Purpose.** The purpose of this section is to promote and enhance the health, comfort aesthetics, prosperity and overall positive quality growth of the City by providing uniform regulation of the use of semi-trailers and other similar conveyances as substitutes for principal and accessory buildings. The purpose is not to ban trailers that are being used to transport snowmobiles, sporting equipment, race cars or other recreational vehicles.

- (b) **No Substitute for Principal Building.** It shall be unlawful to place, erect or maintain within the City any shipping container, wagon, motor vehicle, semi-trailer, truck or similar conveyance as a substitute for a principal building except as provided for herein.
- (c) **Lands Zoned for Residential Use.** No person, firm or corporation shall place, erect, or maintain in the City upon any lands zoned residential any shipping container, wagon, motor vehicle, railroad car, trailer, semi-trailer, truck or similar conveyance which has not been manufactured for use exclusively for mobile recreational purposes as a substitute for an accessory building except for mobile units that contain medical diagnostic equipment for medical facilities.
- (d) **Construction Sites.** The provision of this subsection shall not prevent the use of shipping containers, trailers or similar conveyances to be used temporarily as substitutes for buildings on construction sites during construction provided, however, in no event shall such temporary substitutes for buildings remain thirty (30) days after cessation or completion of construction and shall be removed in any event within forty (40) days of occupation.
- (e) **Tents.** Tents shall not be used as substitutes for principal buildings or as accessory buildings.
- (f) **Temporary Retail Sales.** The provisions of this subsection shall not prevent the conducting of retail sales directly from semi-trailers or trucks for a period not to exceed seventy-two (72) consecutive hours per placement and no more than three (3) such placements in aggregate per address, location, or parcel in any one calendar year.
- (g) **Lands Zoned for Commercial or Industrial.**
  - (1) **Permit Required.** No person, firm, or corporation shall place, erect, maintain or use in the City upon lands zoned business and/or industrial any shipping container, wagon, motor vehicle, railroad car, trailer, semi-trailer, truck or similar conveyance for the purpose of storage, warehousing or as the location for the operation of any business without a permit. This section shall specifically not apply to the temporary parking of any of the above while engaged in the loading and unloading of cargo and merchandise.
  - (2) **Permit.** Upon receipt of the appropriate application as provided by the City, plus a non-refundable fee to be determined by the City Council, and amended from time to time by Resolution, the Building Inspector may issue a permit as required herein. The permit shall be displayed on the unit in a location readily viewable by the public. No permit shall be issued under this section unless the unit meets the safety and aesthetic requirements as determined by the building inspector.
  - (3) **Duration.** Each permit is valid from January 1st or the date of issuance until the following December 31st.
  - (4) **Maintenance Requirements.**
    - a. Vertical stacking of shipping containers or similar conveyances shall not be permitted.
    - b. Such shipping containers or similar conveyances shall be kept in good repair and condition so as not to constitute a nuisance or unsightly condition.

- (h) **Penalty.** Any person, firm, or corporation violating any provisions of this section shall be given fifteen (15) days to correct the violation and/or a penalty as provided in Sec. 1.1.7 of this Code of Ordinances.

**Section 10.1.58** Reserved for Future Use.

**Section 10.1.59** Reserved for Future Use.

**Section 10.1.60** Reserved for Future Use.

**Section 10.1.61** Reserved for Future Use.

**Section 10.1.62** Reserved for Future Use.

**Section 10.1.63** Reserved for Future Use.

**Section 10.1.64** Reserved for Future Use.

**Section 10.1.65** Reserved for Future Use.

**Section 10.1.66** Reserved for Future Use.

**Section 10.1.67** Reserved for Future Use.

**Section 10.1.68** Reserved for Future Use.

**Section 10.1.69** Reserved for Future Use.

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# Article E: Joshua Sanford Airport Vehicle Regulations

### Section 10.1.70 Definition of Words and Phrases.

- (a) **Pedestrian.** Any person afoot.
- (b) **Vehicle.** Every device in, upon, or by which any person or property is or may be transported or drawn excepting aircraft.
- (c) **Emergency Equipment.** Crash, fire, and rescue, or police motor vehicles, and such other equipment as the airport manager may designate as necessary to safeguard airport runways, taxiways, ramps, buildings and other property.
- (d) **Service, Maintenance and Construction Equipment.** Approved equipment normally operated by the City of Hillsboro, fixed base operator(s), and/or the Federal Aviation Administration on landing areas, runways, taxiways, and peripheral roads for the servicing, maintenance and construction of airport facilities and services or for the servicing of aircraft. This definition shall include equipment owned and operated by a contractor performing work on the airport under a contractual agreement with the City of Hillsboro.

### Section 10.1.71 Operation of Vehicles on Runways, Taxiways, and Ramps.

- (a) No vehicle shall enter, be driven upon, or be operated upon any airport runway, taxiway, ramp, tie-down area, or any area posted by signs prohibiting the entrance thereon.
- (b) The provisions of this Section shall not apply to emergency equipment or service, maintenance, and construction equipment when engaged in performing normal duties.
- (c) Aircraft owners may be granted authorization by the airport manager or his/her designated representative to operate a vehicle to reach their own aircraft in a tie-down area. Aircraft owners desiring to operate a vehicle for this purpose shall request such authorization in advance. Any authorization granted shall apply only to the specific need request. Blanket type authorizations shall not be granted. Unless specifically authorized, aircraft owners shall not pass over any runway, taxiway, or ramp and shall proceed

through said tie-down area at a speed not to exceed ten (10) miles per hour. They shall not at any time park a vehicle on any area used for the movement of aircraft.

### **Section 10.1.72      Speed of Vehicles.**

No vehicle shall be driven upon any road within the perimeter of the airport, or upon other aircraft areas, in excess of the speed limit posted, nor shall the driver of any vehicle fail to adhere to any sign posted to regulate vehicle traffic on or about the Sanford Airport.

### **Section 10.1.73      Pedestrian Traffic on Airport.**

No pedestrian shall be allowed beyond the administration area or upon the apron or aircraft tie-down area unless for the purpose of embarking in or disembarking from an aircraft, or unless authorized by the airport manager. Pedestrian traffic is prohibited on taxiway, runways, and outlining areas of the airport except for those employees of the City, county, state, federal government, or contractors engaged in airport construction or maintenance work.

### **Section 10.1.74      Vehicle Parking.**

All vehicles parked on the airport shall be parked in designated areas and in accordance with posted signs or other markings. The airport manager may move, or order the removal of, at the vehicle owner's expense, any vehicle improperly parked. Fines or forfeitures may be levied in accordance with Section 10.1.90.

### **Section 10.1.75      Enforcement.**

It shall be the duty of the Police Department of the City of Hillsboro to enforce the provisions of this Article.

<b>Section 10.1.76</b>	Reserved for Future Use.
<b>Section 10.1.77</b>	Reserved for Future Use.
<b>Section 10.1.78</b>	Reserved for Future Use.
<b>Section 10.1.79</b>	Reserved for Future Use.
<b>Section 10.1.80</b>	Reserved for Future Use.
<b>Section 10.1.81</b>	Reserved for Future Use.
<b>Section 10.1.82</b>	Reserved for Future Use.
<b>Section 10.1.83</b>	Reserved for Future Use.
<b>Section 10.1.84</b>	Reserved for Future Use.
<b>Section 10.1.85</b>	Reserved for Future Use.
<b>Section 10.1.86</b>	Reserved for Future Use.
<b>Section 10.1.87</b>	Reserved for Future Use.
<b>Section 10.1.88</b>	Reserved for Future Use.
<b>Section 10.1.89</b>	Reserved for Future Use.

# Title 10 - Chapter 1

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## Article F: Enforcement and Penalties

### Section 10.1.90 Penalties.

- (a) **Penalty.** The penalty for violation of any provision of this Chapter shall be a deposit as hereafter provided, together with court costs and fees prescribed by Secs. 814.63(1) and (2) or 814.65(1), Wis. Stats., the penalty assessment for moving traffic violations and the driver improvement surcharge imposed by Sec. 346.655, Wis. Stats., where applicable. Payment of the judgment and applicable court costs, fees, assessments and surcharges may be suspended by the sentencing court for not more than sixty (60) days. Any person eighteen (18) years of age or older who shall fail to pay the amount of the forfeiture, court costs, any penalty assessment or driver surcharge or other penalty imposed for violation of any provision of this Chapter may, upon order of the court entering judgment therefor and having jurisdiction of the case, be imprisoned until such forfeiture, costs and assessment are paid, but not exceeding ninety (90) days.
- (b) **Other Sanctions.**
- (1) **By Court.** Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes to suspend or revoke the operating privileges of the defendant, order the defendant to submit to assessment and rehabilitation programs or to attend traffic safety school in addition to payment of a monetary penalty or in lieu of imprisonment.
- (2) **By Municipality.** No person who has been convicted of a violation of any provision of this Chapter shall be issued a license or permit by the City, except a dog license, until the forfeiture imposed for such violation and any penalty assessment, court costs and fees or surcharge is paid.
- (c) **Forfeitures for Violation of Uniform Moving Traffic Regulations.** Forfeitures for violations of any moving traffic regulation set forth in the Wisconsin Statutes adopted by reference in Section 10.1.1 shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable Wisconsin Statute, including any variations or increases for subsequent offenses; provided, however, that this Subsection shall not be construed to permit prosecution under this Chapter for any offense described in Chapters 341 to 350, Wis. Stats., for which an imprisonment penalty or fine may be imposed upon the defendant.
- (d) **Forfeitures for Parking Violations.**



- (1) ***Forfeitures for Uniform Statewide Parking, Stopping and Standing Offenses.*** Minimum and maximum forfeiture for violation of non-moving traffic violations adopted by reference in Section 10.1.1 as described in Chapter 341 to 350, Wis. Stats., shall be as found in the current edition of the Revised Uniform State Traffic Deposit Schedule.
- (2) ***Penalty for Other Parking Violations.*** The forfeiture for violation of parking regulations in Sections 10.1.30 through 10.1.44 shall be a forfeiture of not less than Fifteen Dollars (\$15.00) nor more than Twenty Dollars (\$20.00) for the first offense and not less than Twenty Dollars (\$20.00) nor more than One Hundred Dollars (\$100.00) for the second offense within two (2) years, except that the forfeiture for violations of the provisions of Section 10.1.37 of this Chapter relating to all-night parking shall be Fifteen Dollars (\$15.00) for the first offense.
- (e) ***Other Violations.*** Any person who shall violate any provision of this Chapter for which a penalty is not otherwise established by this Section shall be subject to a forfeiture of not less than Fifteen (\$15.00) nor more than Two Hundred Dollars (\$200.00) for the first offense and not less than Twenty Dollars (\$20.00) nor more than Five Hundred Dollars (\$500.00) for the second offense within two (2) years.

## **Section 10.1.91      Enforcement.**

- (a) ***Enforcement Procedures.***
  - (1) ***How Enforced.*** This Chapter shall be enforced in accordance with the applicable provisions of the Wisconsin Statutes and this Section.
  - (2) ***Applicable Court Procedures.*** Except where otherwise specifically provided by the laws of the State of Wisconsin or this Code, the traffic regulations in this Code shall be enforced in accordance with the provisions of Sec. 345.20(2)(b) and Chapter 800, Wis. Stats.
- (b) ***Citations.***
  - (1) ***Uniform Citation and Complaint.*** The Wisconsin Uniform Municipal Citation described and defined in the Wisconsin Statutes shall be used for enforcement of all provisions of this Chapter except those provisions which describe or define non-moving traffic violations and violations of Secs. 346.71 through 346.73, Wis. Stats. Violations of Secs. 346.71 through 346.73, Wis. Stats., shall be reported to the District Attorney and the Wisconsin Uniform Traffic Citation shall not be used in such cases except upon written request of the District Attorney.
  - (2) ***Parking Citations.*** The City Prosecuting Attorney and Chief of Police shall recommend to the Common Council a citation for use in enforcing the non-moving traffic offenses in this Chapter. Such citation shall be used for enforcement of non-moving traffic regulations created or adopted by this Chapter, including violations of non-moving traffic regulations defined and described in the Wisconsin Statutes, adopted by reference in Section 10.1.1, and all provisions regarding non-moving traffic violations in this Chapter. The citation for non-moving traffic violations shall

contain a notice that the person cited may discharge the forfeiture for violation of a nonmoving traffic regulation and penalty thereof by complying with Subsection (c)(2) of this Section. Non-moving traffic citations may be issued by law enforcement officers or by civilian employees of the Police Department.

(c) **Deposits and Stipulations.**

(1) ***Uniform Traffic Offenses.***

- a. ***Who May Make.*** Persons arrested or cited for violation of moving traffic offenses created by this Chapter shall be permitted to make deposits and stipulations of no contest or released by the arresting officer in accordance with the applicable provisions of the Wisconsin Statutes. Stipulations of guilt or no contest may be made by persons arrested for violations of this Chapter in accordance with Sec. 66.0114(1)(b), Wis. Stats., whenever the provisions of Sec. 345.27, Wis. Stats., are inapplicable to such violations. Stipulations shall conform to the form contained in the uniform traffic citation and complaint under Sec. 345.11, Wis. Stats.
- b. ***Delivery or Mailing of Deposit and Stipulation.*** Any person stipulating guilt or no contest under the preceding Subsection must make the deposit required under Sec. 345.26, Wis. Stats., or, if the deposit is not established under such Statute, shall deposit a forfeited penalty as provided in the schedule established by the Chief of Police and approved by the Common Council. Deposits, including those for parking or nonmoving violations, shall be brought or mailed to the Clerk of Court as directed by the arresting officer.

(2) **Non-moving Traffic Offenses.**

- a. ***Direct Payment of Penalty Permitted.*** Persons cited (summons not issued) for violation of non-moving traffic offenses described and defined in this Chapter may discharge the penalty thereof and avoid court prosecution by mailing or forwarding within five (5) days of the issuance of the citation to the Police Department the minimum forfeiture specified for the violation. When payment is made as provided in this paragraph, no court costs shall be charged.
- b. ***Court Prosecution.*** If the alleged violator does not deliver or mail a deposit as provided in Subsection a. within fifteen (15) days of the date of the citation, the Chief of Police shall forward a copy of the citation to the City Attorney for prosecution.
- c. ***Registration Suspension.*** If the alleged violator does not pay the forfeiture or appear in court in response to the citation for a non-moving traffic violation on the date specified in the citation or, if no date is specified on the citation, within twenty-eight (28) days after the citation is issued, the City may ask the Wisconsin Department of Transportation to suspend the registration of the vehicle involved or refuse registration of any vehicle owned by the person pursuant to the provisions of Sec. 345.28(4), Wis. Stats., and Subsection (c)(3) below.

- d. **Bond.** Any official authorized to accept deposits under Sec. 345.26, Wis. Stats., or this Section, shall qualify by taking the oath prescribed by Sec. 19.01, Wis. Stats.
- (3) **Notice of Demerit Points and Receipt.** Every officer accepting a forfeited penalty or money deposit under this Section shall receipt therefor in triplicate as provided in Sec. 345.26(3)(b), Wis. Stats. Every officer accepting a stipulation under the provisions of this Section shall comply with the provisions of Secs. 343.28, 345.26(1)(a) and 345.27(2), Wis. Stats., and shall require the alleged violator to sign a statement of notice in substantially the form contained on the uniform traffic citation and complaint promulgated under Sec. 345.11, Wis. Stats.
- (4) **Registration Suspension Program.**
  - a. The City may participate in the Wisconsin Department of Transportation Traffic Violation and Registration Program as set forth in Sec. 345.28, Wis. Stats., and Wis. Adm. Code Trans 128 and all amendments or changes thereto.
  - b. The Chief of Police is hereby designated as a delegated authority for purposes of Secs. 85.13 and 345.28, Wis. Stats., and Wis. Adm. Code Trans 128. The Chief of Police is authorized to perform, on behalf of the City, all functions required of a local authority under said Statutes and Code including, but not limited to:
    - 1. Preparing and completing all forms and notices, notifying the Wisconsin Department of Transportation of unpaid citations for non-moving traffic violations;
    - 2. Specifying whether the registration of vehicles involved in unpaid citations for non-moving traffic violations should be suspended and/or whether registration should be refused for any vehicle owned by persons with unpaid citations for non-moving traffic violations;
    - 3. Determining the method by which the City will pay the Wisconsin Department of Transportation for administration of the program; establishing the effective date for participation;
    - 4. And taking such other action as is necessary to institute and continue participation in the Wisconsin Department of Transportation Traffic Violation and Registration Program.
  - c. The Chief of Police is hereby authorized to assign a member of the Police Department to perform such acts as are necessary to effectuate this Subsection.
  - d. In addition to all applicable fines and court costs, the cost of using the Wisconsin Department of Transportation Traffic Violation and Registration Program shall be assessed as permitted by Sec. 345.28(4)(d), Wis. Stats. The Police Department may refuse to notify the Wisconsin Department of Transportation of payment on a citation until all applicable fines and costs, including costs assessed under the preceding sentence, are paid.

- e. This Subsection shall not be interpreted as requiring that all unpaid citations for non-moving traffic violations be processed through the Wisconsin Department of Transportation Traffic Violation and Registration Program. The City's participation in such program shall be in addition to any and all other means legally available to enforce such citations.

***State Law Reference:*** Sec. 345.28, Wis. Stats.; Trans 128, Wis. Adm. Code.

# Title 10 - Chapter 2

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## Bicycles and Play Vehicles

### Section 10.2.1 Definitions. As used in this Chapter:

- (a) **Bicycle** means every device propelled by the feet acting upon pedals and having wheels, any two (2) of which are not less than fourteen (14) inches in diameter.
- (b) **Bicycles' Lane** means that portion of a roadway set aside for exclusive use of bicycles and so designated by appropriate signs and markings by the responsible governing body.
- (c) **Bike Route** means any bicycle lane, bicycle way or highway which has been duly designated by the responsible governing body and identified by appropriate signs and markings.
- (d) **Bicycle Way** means any path or sidewalk, or portion thereof, designated for the use of bicycles by the responsible governing body.
- (e) **Carrier** means any device attached to a bicycle designed for carrying articles.
- (f) **Right-of-Way** means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.
- (g) **Play Vehicles** means any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.

### Section 10.2.2 Lighting and Other Equipment.

No person shall operate a bicycle upon a highway during hours of darkness unless equipped as required in Sec. 347.81, Wis. Stats.

### Section 10.2.3 Rules of the Road.

The provisions of Chapters 346 and 347, Wis. Stats., and applicable City ordinances shall govern the operation of bicycles where appropriate. Every person driving a bicycle upon a roadway shall be granted all the rights and shall be subject to all the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or

by the traffic ordinances of the City applicable to the driver of the vehicle, except as to those provisions of laws and ordinances which by their nature can have no application.

## **Section 10.2.4 Regulation of Skateboards, Roller Skates and Roller Skis.**

- (a) **Regulations.** It shall be unlawful for any person in the City of Hillsboro to operate or ride a skateboard, roller skates, or roller skis ("play vehicles") in any of the following places:
  - (1) On any sidewalk in a business district. For purposes of this Section, a business district shall be defined as any area primarily commercial in nature.
  - (2) In any public parking ramp or parking lot.
  - (3) On private property, unless permission has been received from the owner, lessee or person in charge of that property.
- (b) **Yield to Pedestrians.** Operators or riders of skateboards, roller skates, roller skis, or other play vehicles shall yield the right-of-way to other pedestrians using City sidewalks, and shall not otherwise endanger or interfere with normal pedestrian traffic on those sidewalks.
- (c) **Play Vehicles Not To Be Pulled By Moving Vehicles.** No person riding upon any coaster, roller skates, skateboard, roller skis, sled, toboggan or play vehicle shall attach the same or himself to any vehicle upon a roadway.

## **Section 10.2.5 General Bicycle Regulations.**

- (a) **Parental Responsibility.** No parent or guardian of any child shall authorize or knowingly permit such child to violate any of the provisions of Sections 10.2.3, 10.2.4 and this Section.
- (b) **Street Operation.**
  - (1) Unless preparing to make a left turn, every person operating a bicycle upon a roadway carrying two-way traffic shall ride as near as possible to the right edge of the unobstructed traveled roadway. On one-way roadways, the operator of the bicycle shall ride as near as possible to the right edge or left edge of the unobstructed traveled roadway. Every person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction, allowing a minimum of three (3) feet between his bicycle and the vehicle.
  - (2) Every person when operating a bicycle upon a roadway shall ride such bicycle in single file.
  - (3) It shall be unlawful for any person riding upon a bicycle to cling to or attach himself or the bicycle to any other moving vehicle upon a street or highway.

- (4) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. Infant seats are permitted if securely attached to the frame at the top mount and to the axle and frame at the rear bottom mount and if provided with hand holds, foot rests, foot guards and safety belt. The use of a back pack for carrying an infant is permitted. Persons are not permitted to be located on a bicycle in front of the operator of the bicycle.
  - (5) No person operating a bicycle shall carry any package, bundle or article which prevents the safe operation of the bicycle with at least one hand on the handlebars at all times.
  - (6) No rider of a bicycle shall remove both hands from the handlebars or feet from the pedals, or practice any acrobatic or fancy riding on any street.
  - (7) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.
  - (8) No person may operate a bicycle or moped upon a roadway where a sign is erected indicating that bicycle riding is prohibited.
- (c) **Bicycle Parking.** No bicycle shall be parked in front of or adjacent to any commercial establishment unless the bicycle is parked on the sidewalk parallel to the street and as close as possible to the curb. No person shall leave a bicycle at such a place or in such a way as to create a hazard to pedestrians, automobile operators or to anyone else.
- (d) **Required Equipment.** Every bicycle, when operated upon a highway, shall be equipped with a brake adequate to control the movement of and to stop such vehicle whenever necessary. Such brake shall be maintained in good working order at all times.
- (e) **Bicycles Not to be Pulled by Moving Vehicles.** No person riding upon a bicycle shall cling or attach himself/herself or his/her bicycle to any other moving vehicle upon a street or highway, nor shall the operator of any such bicycle tow or draw any coaster wagon, sled, person on roller skates, toy vehicles or any other similar vehicle on such highway.
- (f) **Speed.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions or in excess of any posted speed limit.
- (g) **Operation on Sidewalks.**
- (1) No person over the age of ten (10) shall ride or propel any bicycle upon any public sidewalk or thoroughfare of the City set apart for pedestrians, except bicycles having wheels sized twenty (20) inches or under. This exception shall not apply to twenty (20) inch or under bicycles designed or modified to BMX specifications.
  - (2) No person shall ride or propel any bicycle upon any public street, alley, boulevard or sidewalk of the City in such manner as to interfere with the rights of other persons using such street, alley, boulevard, or sidewalk.
- (h) **Bicycle Operation While Hearing Obstructed.** No person may operate a bicycle upon a highway while such operator is using any audio device attached directly to ear or ears of such operator that materially impairs the ability of such operator to hear traffic signals or warnings.
- (i) **Mopeds Prohibited on Bicycle Ways.** No person may ride a moped or motor bicycle with the power unit in operation upon a bicycle way.

(j) **Riding Bicycle on Bicycle Lane.**

- (1) Unless two-way traffic is authorized by the Common Council on any portion of a roadway which it has set aside as a bicycle lane and appropriate traffic signs are installed, every person operating a bicycle upon a bicycle lane shall ride in the same direction in which vehicular traffic on the lane of the roadway nearest the bicycle lane is traveling.
- (2) Unless otherwise provided under Subsection (k)(2)b below, a person operating a bicycle may enter or leave a bicycle lane only at intersections or at driveways adjoining the bicycle lane.
  - a. A person may leave a bicycle at any point by dismounting from the bicycle and walking it out of the lane. A person may enter a bicycle lane at any point by walking his/her bicycle into the lane and then mounting it.
- (3) Every person operating a bicycle upon a bicycle lane shall exercise due care and given an audible signal when passing a bicycle rider proceeding in the same direction.
- (4) Every operator of a bicycle entering a bicycle lane shall yield the right-of-way to all bicycles in the bicycle lane. Upon leaving a bicycle lane, the operator of a bicycle shall yield the right-of-way to all vehicles and pedestrians.

(k) **Riding Bicycle on Bicycle Way.**

- (1) Every person operating a bicycle upon a bicycle way shall:
  - a. Exercise due care and give an audible signal when passing a bicycle rider or a pedestrian proceeding in the same direction.
  - b. Obey each traffic signal or sign facing a roadway which runs parallel and adjacent to a bicycle way.
- (2) Every person operating a bicycle upon a bicycle way open to two-way traffic shall ride on the right side of the bicycle way.
- (3) Every operator of a bicycle entering a bicycle way shall yield the right-of-way to all bicycles and pedestrians in the bicycle way.

## **Section 10.2.6 Bicycle Registration and Licensing.**

- (a) **Registration Required.** It shall be unlawful for any resident of the City to operate a bicycle upon any of the streets, alleys, or public highways of the City of Hillsboro, unless said bicycle is properly registered and tagged as herein provided.
- (b) **Fee.** There shall be no fee associated with bicycle registration.
- (c) **Identification Tag.** Upon such registration, the said officer shall cause an identification tag to be affixed to the bicycle registered, serially numbered to correspond to the registration number. Such tag shall remain affixed to the bicycle unless removed by said officer for cause or for retagging upon reregistration. In case of theft or loss, a duplicate tag shall be issued upon payment of a fee covering the cost of such tag.
- (d) **Expiration.** Registration shall be non-expiring as long as the bicycle's ownership remains unchanged.



- (e) **Restrictions and Suspension.** No bicycle shall be registered which is in unsafe mechanical condition. City police officers shall have the authority to suspend the registration of and remove the identification tag from any bicycle operated contrary to any state law or the City code or operated while in an unsafe mechanical condition, such suspension and removal to continue for a period not to exceed ten (10) days, provided that such registration shall not be reinstated or such identification tag be replaced while such bicycle is in unsafe mechanical condition. Such suspension and removal shall be in addition to other penalties provided hereunder.
- (f) **Removal of Identification Tag Prohibited.** No person shall willfully remove, deface or destroy any such identification tag or any bicycle frame number.
- (g) **Report Change of Information.** Within ten (10) days after any bicycle registered hereunder shall have changed ownership or been dismantled and taken out of service or operation, the person in whose name the bicycle has been registered shall report such information to the City Police Department. In case of change of ownership, the registration shall thereupon be changed to show the name of the new owner. In case of dismantling and taking out of service or operation, the registration shall be cancelled and identification tag returned to the City Police Department.

## **Section 10.2.7      Bicycle Penalties.**

- (a) Any person sixteen (16) years of age or older who shall violate any provision of this Chapter may be issued a Uniform Municipal Citation and be subject to the penalties provided by the Uniform State Traffic Deposit Schedule.
- (b) Any person fourteen (14) years of age through fifteen (15) years of age who shall violate any provisions of this Chapter may be issued a citation and be subject to the penalties provided by the Deposit Schedule and, upon conviction thereof, may be required to forfeit not more than Twenty-five Dollars (\$25.00), together with the cost of the prosecution and, in default of such payment, the Court may suspend the child's operating privileges, as defined in Sec. 340.01, Wis. Stats., for not less than thirty (30) days nor more than ninety (90) days.
- (c) Any person under fourteen (14) years of age who shall violate any provision of this Chapter may be issued a special Bicycle Violation Warning Notice along with the following additional actions:
  - (1) First offense in one (1) year: A warning letter sent to the parent or guardian.
  - (2) Second offense in the same year: Vehicle license stickers shall be invalidated by the Chief of Police for a period of not longer than fifteen (15) days as said officer may deem necessary. The owner of said vehicle shall neither use this vehicle nor any other vehicle during said suspension.
  - (3) Third offense in the same year. Vehicle license stickers shall be invalidated by the Chief of Police for a period of not less than fifteen (15) days nor more than thirty (30) days as said officer may deem necessary. The owner of said vehicle shall neither use this vehicle nor any other vehicle during said suspension.

- (4) Fourth and subsequent offense in the same year: Mandatory referral to Vernon County Juvenile Court Intake Worker.
- (d) All violations shall be determined based on the preceding twelve (12) month period to establish which violation has occurred.
- (e) Any parent or guardian of any child who authorizes or knowingly permits such child to violate any of the provisions of this Chapter may be subject to the provisions of Secs. 346.77 and 346.82(1), Wis. Stats.

## **Section 10.2.8      Play Vehicle Penalties.**

- (a) Any person fifteen (15) years of age and over who shall violate any provisions of this Chapter may be issued a citation pursuant to 1.1.7.
- (b) Any person under fifteen (15) years of age who shall violate any provisions of this Chapter may receive an officer's report warning notice along with the following additional actions:
  - (1) First offense in one (1) year: A warning letter sent to the parent or guardian.
  - (2) Second or third offense in the same year: The play vehicle may be impounded by law enforcement authorities.
  - (3) Fourth and subsequent offense in the same year: Mandatory referral to Vernon County Juvenile Court Intake Worker.
  - (4) Any parent or guardian of any child who authorizes or knowingly permits such child to violate any of the provisions of this Chapter may be subject to the provisions of Secs. 346.77 and 346.82(1), Wis. Stats.

# Title 10 - Chapter 3

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## Snowmobiles

### Section 10.3.1 State Snowmobile and All-Terrain Vehicles Laws Adopted.

Except as otherwise specifically provided in this Chapter, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the Wisconsin Statutes are hereby adopted by reference and made part of this Chapter as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this Chapter. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

350.01	Definitions
350.02	Operation of Snowmobiles on or in the Vicinity of Highways
350.03	Right-of-Way
350.04	Snowmobile Races, Derbies and Routes
350.045	Public Utility Exemption
350.047	Local Utility Exemption
350.05	Operation by Youthful Operators Restricted
350.055	Safety Certification Program Established
350.06	Firearms and Bows
350.07	Driving Animals
350.08	Owner Permitting Operation
350.09	Head Lamps, Tail Lamps and Brakes, Etc.
350.10	Miscellaneous Provisions for Snowmobile Operation
350.101	Intoxicated Snowmobiling
350.102	Preliminary Breath Screening Test
350.1025	Application of Intoxicated Snowmobiling Law
350.104	Chemical Tests
350.106	Report Arrest to Department
350.107	Officer's Action After Arrest for Operating a Snowmobile While Under Influence of Intoxicant
350.12	Registration of Snowmobiles
350.125	Completion of Application for Registration by Snowmobile Dealers
350.13	Uniform Trail Signs and Standards
350.15	Accidents and Accident Reports

350.17	Enforcement
350.18	Local Ordinances
350.19	Liability of Landowners
350.99	Parties to a Violation

## **Section 10.3.2      Applicability of Traffic Regulations.**

No person shall operate a snowmobile or all-terrain vehicle in the City of Hillsboro upon any highway, street, alley, public parking lot or upon any private parking lot or road held out for the use of the general public for parking or vehicular travel in violation of traffic regulations made applicable by Sec. 346.02(10), Wis. Stats., for snowmobiles and Sec. 346.02(11), Wis. Stats., for all-terrain vehicles.

## **Section 10.3.3      Operation Regulations.**

- (a) **Speed.** No person shall operate a snowmobile or all-terrain vehicle upon any public property, snowmobile or all-terrain vehicle route or trail, or upon any street or alley within the City of Hillsboro in excess of twenty (20) miles per hour.
- (b) **Unattended Vehicles.** No person shall leave or allow a snowmobile or all-terrain vehicle owned or operated by him/her to remain unattended on any public highway or public property while the motor is running or with the starting key in the ignition.
- (c) **Operation on Sidewalks Prohibited.** No person shall operate a snowmobile or all-terrain vehicle upon any sidewalk, pedestrian way or upon the area between the sidewalk and the curb line of any street in the City of Hillsboro, except for the purpose of crossing to obtain immediate access to an authorized area of operation.
- (d) **Operation on Public and Private Property Restricted.**
  - (1) No person shall operate a snowmobile or all-terrain vehicle on any private property now owned or controlled by him/her within the City of Hillsboro without the express consent or permission of the owner.
  - (2) No person shall operate a snowmobile or all-terrain vehicle upon any public right-of-way, public park, or other municipal property except as authorized in Section 10.3.5.
- (e) **Age of Operators.**
  - (1) No person under the age of twelve (12) years may operate a snowmobile unless accompanied by a parent or guardian or a person eighteen (18) years of age or older. Persons between twelve (12) and sixteen (16) years of age must possess a valid snowmobile safety certificate or be accompanied by a person over eighteen (18) years of age or a person over fourteen (14) years of age holding a valid snowmobile safety certificate.

- (2) No person sixteen (16) years of age or over may operate a snowmobile or all-terrain vehicle upon any street, alley or public right-of-way in the City of Hillsboro unless such person has a valid motor vehicle operator's license.
- (3) No owner or other person having charge or control of a snowmobile or all-terrain vehicle may knowingly authorize or permit any person to operate the snowmobile or all-terrain vehicle if the person is prohibited from operating a snowmobile or all-terrain under Wisconsin Statutes or this Chapter, or if the person is incapable of operating a snowmobile or all-terrain vehicle because of physical or mental disability or if the person is under the influence of alcohol beverages or controlled substances or a combination thereof, under the influence of any other drug to a degree which renders him/her incapable of safely operating a snowmobile or all-terrain vehicle.
- (4) No parent or guardian of any child shall authorize or knowingly permit such child to operate a snowmobile or all-terrain vehicle if the child is prohibited from operating a snowmobile or all-terrain vehicle under Wisconsin Statutes or this Chapter.
- (f) **Pursuit of Animals.** No operator shall violate Sec. 350.07, Wis. Stats., by driving or pursuing any animal with a snowmobile or all-terrain vehicle.
- (g) **Proper Lighting.** Each snowmobile or all-terrain vehicle operator on the designated route shall see to it that his/her snowmobile or all-terrain vehicle is equipped with proper, operating head lamps, tail lights and brakes and other required equipment all in accord with Sec. 350.09, Wis. Stats.
- (h) **Miscellaneous Regulations.** No person shall operate a snowmobile or all-terrain vehicle in the following manner:
  - (1) At a rate of speed that is unreasonable or improper under the circumstances.
  - (2) In any careless way so as to endanger the person or property of another.
  - (3) In such a way that the exhaust of the motor makes an excessive or unusual noise.
  - (4) Without a functioning muffler.
  - (5) On the private property of another without the consent of the owner or lessee.
  - (6) On the frozen surface of public waters within one hundred (100) feet of a person not in or upon a vehicle or within one hundred (100) feet of a fishing shanty unless operated at a speed of ten (10) miles per hour or less.
  - (7) On a slide, ski or skating area except for purposes of servicing the area, crossing at places where marked or after stopping and yielding the right-of-way.
  - (8) On or across a cemetery, school or church property without consent of the owner.
- (i) **Intoxicated Snowmobiling Prohibited.** The restrictions of Sec. 350.101, Wis. Stats., are hereby incorporated by reference and it shall be a violation of this Section to engage in operation of a snowmobile while under the influence of an intoxicant to a degree which renders the operator to be incapable of safe snowmobile operation. In addition, Secs. 350.102 through 350.107, Wis. Stats., are incorporated herein by reference for enforcement purposes against intoxicated use of a snowmobile.
- (j) **Non-Assumption of Liability.** By enacting this Section designating a snowmobile route through the City, portions of which cross private properties, or frozen surfaces, the City is

assuming no responsibility for any property damage or personal injuries sustained by any persons as a result of the operation of snowmobiles across those properties.

### **Section 10.3.4 Accidents and Accident Reports.**

- (a) If he/she can do so without serious danger to his own snowmobile or to persons on board, the operator of a snowmobile involved in a snowmobile accident within the City shall stop his/her snowmobile and shall render to other persons affected thereby such assistance as may be practicable and necessary to save them from or minimize any danger caused by the accident and shall give his/her name and address and identification of his/her snowmobile to any person injured and to the owner of any property damaged in the accident.
- (b) If the snowmobile accident results in death or injury to any person or total property damage in excess of Two Hundred Dollars (\$200.00), every operator of a snowmobile involved in such accident shall, as soon as possible, notify the Police Department of the accident and shall, within ten (10) days after the accident, file a written report thereof with the department on forms prescribed by it.
- (c) If the operator of a snowmobile is physically incapable of making the report required by this Section and there was another occupant on the snowmobile at the time of the accident capable of making the report, he/she shall make such report.
- (d) "Snowmobile Accident" means a collision, accident or other casualty involving a snowmobile.

### **Section 10.3.5 Snowmobile Routes and Trail Designated.**

- (a) **Intent.** The intent of this Section is to provide a means for persons to travel from a residence and/or a lodging establishment within the City limits of Hillsboro, Vernon County, Wisconsin, for the shortest distance that is necessary for a person to operate a snowmobile to the snowmobile route or trail that is closest to that residence and/or lodging establishment.
- (b) **Designated Roadways and/or Highways.** Pursuant to Sec. 350.18(3)(a), Wis. Stats., no person shall operate a snowmobile on a roadway or shoulder of a highway not designated as a snowmobile route other than the following:
  - (1) Mill Street from the Hillsboro High School east to Harrison Avenue to Spring Street and to the City-owned alley behind the Hillsboro Kwik Trip Store to access the designated trail ending at the Hillsboro Kwik Trip Store.
  - (2) Garden Street from Pine Avenue east to Water Avenue (Hwy. 80, 82, 33) to access the designated trail on Crest Avenue.

- (c) **Snowmobile Route Guidelines.** Snowmobiles violating any of the following conditions would be subject to the underlying violation of operating on the roadway:
- (1) Snowmobiles shall be operated on the extreme right side of the roadway and travel with the flow of traffic.
  - (2) Snowmobiles are to be operated in single file.
  - (3) Headlights should be on at all times.
  - (4) Snowmobile operators shall yield the right-of-way to other vehicular traffic and pedestrians.
  - (5) Snowmobile operators will have the privilege to use the designated snowmobile routes to gain access to the trail only.
  - (6) Snowmobiles will not be permitted on any sidewalks except to cross over to the street.
- (d) **Snowmobile Registration and Issuance of Snowmobile Permits.** All City of Hillsboro residents who wish to operate snowmobiles on City streets to gain access to the designated snowmobile routes shall submit to the following conditions:
- (1) Register their snowmobiles with the Hillsboro Police Department, using their Department of Natural Resources six-digit registration number.
  - (2) The Hillsboro Police Department shall provide a route for the snowmobile operator to gain access to the snowmobile route. Any deviation from this access route can be cause for revocation of the snowmobile operator's permit and/or a City ordinance violation of operating on the roadway.
  - (3) Any guests of Hillsboro residents with an approved snowmobile permit can operate on the resident's route as long as the resident is accompanying the guest.
  - (4) Snowmobile operators lodging within the City limits of Hillsboro shall notify the Hillsboro Police Department for a temporary permit to gain access to the designated snowmobile routes and will be subject to the same rules and regulations as residents and guests.
  - (5) Snowmobile routes will be open on November 1 through April 1. The Chief of Police will have authority to declare the stated snowmobile routes either open or closed.
- (e) **Trail Markers.** The Chief of Police is directed and authorized to procure, erect and maintain appropriate snowmobile route, trail and limit signs and markers as approved by the State Department of Natural Resources under Sec. 350.13, Wis. Stats. The Chief of Police shall have the power to declare the stated snowmobile routes and trails either open or closed.

*Cross-Reference:* Section 10.4.2.

## **Section 10.3.6      Penalty.**

Any person who shall violate any provision of this Chapter shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00) and not more than Five Hundred Dollars

(\$500.00), together with the costs of prosecution, provided no person shall forfeit an amount in excess of the maximum fine or forfeiture allowed in the Wisconsin Statutes for the same offense and further provided that the penalty and forfeiture for parking violations on highways shall be the amount applicable to such violations by owners or operators of motor vehicles under Title 10, Chapter 1, of this Code of Ordinances.

## **Section 10.3.7            Enforcement.**

**Uniform Citation for Highway Violations.** The uniform traffic citation promulgated under Sec. 345.11, Wis. Stats., shall be used for violations of this Chapter relating to highway use except as herein provided.

- (a) **Parking Violations.** The special traffic citation described and defined in Title 10, Chapter 1, of this Code of Ordinances shall be used for enforcement of violations of rules of the road relating to parking of vehicles adopted by reference in Section 10.3.1 of this Chapter.
- (b) **Other Violations.** All violations of this Chapter not described in Subsections (a) or (b) shall be enforced in accordance with Secs. 66.0114 and 66.0111, Wis. Stats. Stipulations of guilt or no contest may be made as provided in Sec. 66.0114(1)(b), Wis. Stats., in substantially the form provided in the uniform traffic citation within five (5) days of the date of the citation for such violation. Bail deposits may also be made under Sec. 66.0114, Wis. Stats.
- (c) **Police Department to Receive Stipulations and Penalties.** Stipulations, forfeited penalties and deposits for obtaining release from arrest authorized under this Chapter may be accepted at the Police Department offices.
- (d) **Forfeited Penalties and Deposits.** Except as otherwise provided in Sec. 345.26, Wis. Stats., and the deposit schedule adopted by the State Board of Circuit Court Judges thereunder, required penalties and deposits or bail not including costs or fees for violation of this Chapter shall be as established by the schedule adopted by the Common Council.



## **Title 10 - Chapter 4**

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# **All-Terrain Vehicles and Off-Road Motor Vehicle Operation**

### **Section 10.4.1 State All-Terrain Vehicle Laws Adopted.**

The provisions describing and defining regulations with respect to all-terrain vehicles in the following-enumerated Subsections of Sec. 23.33, Wis. Stats., and any future amendments or revisions, are hereby adopted by reference and made part of this Section as if fully set forth herein. The statutory sections adopted by reference herein shall be designated as part of this Code by adding the prefix "10.4.1-" to each statute section number. Any acts required to be performed by the following Statutory Subsections or which are prohibited by such Statutory Subsections are required to be performed by this Section or are prohibited by this Section:

23.33(2)	Registration
23.33(3)	Rules of operation
23.33(4)	Operation on or near highway
23.33(5)(a)-(c)	Age restrictions
23.33(6)	Equipment requirements
23.33(7)	Accidents
23.33(1)	Definitions

### **Section 10.4.2 Unauthorized Operation of Motor Vehicles on Public or Private Property.**

(a) **Purpose.**

- (1) The unauthorized off-road operation of motor vehicles has resulted in serious damage to public and private lands including damage or destruction of vegetation, animal life and improvement to the lands; and
- (2) The unauthorized off-road operation of motor vehicles has resulted in the permanent scarring of land and an increase in both erosion and air pollution; and
- (3) The unauthorized off-road operation of motor vehicles has resulted in collisions and near collisions threatening the life and safety of the operators of such vehicles as well as of other persons; and

- (4) The unauthorized off-road operation of motor vehicles has resulted in a loss of the privacy, quietude and serenity to which the owners and users of land are rightfully entitled.
- (b) **Definitions.** For purposes of this Section, the terms below shall be defined as follows:
- (1) **Unauthorized** shall mean without the express prior consent of the City of Hillsboro. Authorization shall not be implied from a failure to post private or public land. Authorization shall be in writing from the Hillsboro Police Chief or Hillsboro City Council.
  - (2) **Off-Road** shall mean any location which:
    - a. Is not a paved or maintained public street or alley; or
    - b. Is not used or maintained by the owner or lessee of land as a driveway, parking lot or other way for motor vehicles; or
    - c. Is a private trail for use only by the owner or his/her permittees for recreational or other vehicular use. Off-road shall not include any creekbed, riverbed or lake provided, however, that this Subsection shall not apply to snowmobiles or other vehicles being operated on the ice covering such creekbed, riverbed or lake.
  - (3) **Operation** shall mean the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.
  - (4) **Motor Vehicle** shall mean, for purposes of this Section, any vehicle which is self-propelled and shall include but not be limited to automobiles, trucks, jeeps, vans, motorcycles, motorbikes, go-karts, motorized three-wheeled vehicles, all-terrain vehicles, mopeds, snowmobiles, dune buggies and tractors. Motor vehicle shall not mean any airplane, railroad train, boat, wheelchair or bicycle. A vehicle which would otherwise be defined as a motor vehicle under this Section shall not be so defined while:
    - a. It is being operated solely for the purpose of construction or maintenance of an improvement to land or solely for access to construction or maintenance sites provided such operation is by persons having legitimate business on such lands or sites;
    - b. It is being operated by or at the direction of public employees or utility company employees as part of their employment duties.
    - c. It is being operated by the holder of an easement or right of access on or over the land on which operation is occurring or the holder's employees or agents.
- (c) **Unauthorized Off-road Operation Prohibited.**
- (1) The unauthorized off-road operation of a motor vehicle is prohibited.
  - (2) Except for authorized maintenance vehicles and snowmobiles or all-terrain vehicles operating in areas authorized by the Common Council, it shall be unlawful to operate any minibike, go-kart, all-terrain vehicle or any other motor-driven craft or vehicle principally manufactured for off-highway use on the City streets, alleys, parks, sidewalks, bikeways, parking lots or on any public lands or private lands or parking lots held open to the public. The operator shall at all times have the written consent of the owner before operation of such craft or vehicle on private lands.

## Section 10.4.3 Mini-Bikes and Self-Propelled Vehicles Regulated.

- (a) **Definitions.** The following definitions shall be applicable in this Section:
1. **Mini -Bike.** Any motorized vehicle primarily used for transportation or sport, including, but not limited to, motorcycles, off-the-road trail bikes and motorized bicycles.
  2. **Self-Propelled Vehicles.** Any motorized vehicle primarily used for off-the-road use, including but not limited to, go-carts, all-terrain vehicles and all other vehicles not registered pursuant to Chapter 341, Wis. Stats., but not snowmobiles.
  3. **Motorized Vehicle.** Any self-propelled device in, upon or by which any person or property is or may be transported.
  4. **Highway.** All public ways and thoroughfares and bridges on the same. It includes the entire highway right-of-way width, not limited to the actual traveled portion, but also includes the shoulders, ditches and other areas adjacent thereto.
- (b) **Operation of Mini-Bikes and Self-Propelled Vehicles.** No person shall operate a minibike or self-propelled vehicle in the City of Hillsboro in the following manner:
1. At a rate of speed that is unreasonable or imprudent under the circumstances.
  2. In any careless way so as to endanger the person or property of another.
  3. While under the influence of intoxicating liquor, fermented malt beverages, narcotics or other controlled substances.
  4. In such a way that the exhaust of the motor makes an excessive or unusual noise.
  5. Without a functioning muffler.
  6. Upon any public highway, street or alley, or upon any sidewalk or parkway in the City of Hillsboro unless such vehicle is registered as required by Chapter 341, Wis. Stats., and its operation and operator are specifically permitted to operate the said vehicle by the Wisconsin Statutes.
  7. Upon any slide, ski or skating area, except for the purposes of serving the area or crossing the places where marked.
  8. Upon any lands owned, operated or leased by the City of Hillsboro.
  9. Upon a cemetery, burial ground, school or church property, without the express consent of the owner.
- (c) **Liability of Parent or Guardian.** No parent or guardian of any child under the age of eighteen (18) years shall authorize or permit such child to violate any of the provisions of this Section. Any child under the age of eighteen (18) years who shall operate a mini-bike or self-propelled device shall be presumed to be operating said vehicle under the authority of a parent or guardian.
- (d) **Penalties.** Any person who shall violate this Section shall, upon conviction thereof, forfeit for each offense not less than Twenty-five Dollars (\$25.00) nor more than Two

Hundred Dollars (\$200.00), together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail not to exceed thirty (30) days.

# Title 10 - Chapter 5

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## Abandoned and Junked Vehicles

### Section 10.5.1 Abandoned Vehicles; Definitions.

- (a) **Abandonment of Vehicles Prohibited.** No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the City of Hillsboro for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in the City of Hillsboro or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than forty-eight (48) hours, the vehicle shall be deemed abandoned and constitutes a public nuisance.
- (b) **Definitions.** For purposes of this Chapter, the following definitions shall be applicable:
- (1) **Vehicle** shall mean a motor vehicle, trailer, semitrailer or mobile home, whether or not such vehicle is registered under Wisconsin Law.
  - (2) **Unattended** shall mean unmoved from its location with no obvious sign of continuous human use.
  - (3) **Street** shall mean any public highway or alley and shall mean the entire width between the boundary lines of any public way where any part thereof is open to the public for purposes of vehicular traffic.
- (c) **Presumptions.** For purposes of this Section, the following irrebuttable presumptions shall apply:
- (1) A vehicle shall be presumed unattended if it is found in the same position forty-eight (48) hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during said forty-eight (48) hours.
  - (2) Any vehicle left unattended for more than forty-eight (48) hours on any public street or public ground or left unattended for more than forty-eight (48) hours on private property without the consent of the property owner is deemed abandoned and constitutes a nuisance; provided, that the vehicle shall not be deemed abandoned under this Subsection if left unattended on private property outside of public view and is enclosed within a building, or if designated as not abandoned by the Chief of Police or designee.
- (d) **Exceptions.** This Section shall not apply to a vehicle in an enclosed building or a vehicle stored on a premises licensed for storage of junk or junked vehicles and fully in

compliance with City zoning regulations, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.

## **Section 10.5.2      Removal and Impoundment of Vehicles.**

Any vehicle in violation of this Chapter shall be removed and impounded until lawfully claimed or disposed of under the provisions of Section 10.5.3.

## **Section 10.5.3      Removal, Storage, Notice or Reclaimer of Abandoned Vehicles.**

- (a) **Applicability.** The provisions of this Section shall apply to the removal, storage, notice, reclaimer or disposal of abandoned vehicles as defined in Section 10.5.1.
- (b) **Removal.**
  - (1) Any police officer who discovers any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the City of Hillsboro which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.
  - (2) Upon removal of the vehicle, the police officer shall notify the Chief of Police or his/her designee of the abandonment and of the location of the impounded vehicle.
- (c) **Storage and Reclaimer.** Any abandoned vehicle which is determined by the Chief of Police or his/her designee to be abandoned shall be retained in storage for a period of fourteen (14) days after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner and/or secured party of record with the Wisconsin Motor Vehicle Division, except that if the Chief of Police or his/her designee determines an abandoned vehicle to have a value of less than One Hundred Dollars (\$100.00), or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, it may be junked or sold by direct sale to a licensed salvage dealer after having been retained in storage for a period of seven (7) days and after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner or secured party of record with the Wisconsin Motor Vehicle Division, provided that it is first determined that the vehicle is not reported stolen or wanted for evidence or other reason. All substantially complete vehicles in excess of nineteen (19) model years of age shall be deemed as a having value in excess of One Hundred Dollars (\$100.00). Any such vehicle which may be lawfully reclaimed may be released upon the payment of all accrued charges, including towing, storage and notice charges and upon presentation of the vehicle title or other satisfactory evidence to the Chief of Police or his/her designee to prove an ownership or secured party interest in said vehicle.

- (d) **Notice to Owner or Secured Party.** Certified mail notice, as referred to herein, shall notify the Wisconsin titled owner of the abandoned vehicle, if any, and/or the secured party of record with the Wisconsin Motor Vehicle Division, if any, of the following:
- (1) That the vehicle has been deemed abandoned and impounded by the City of Hillsboro;
  - (2) The "determined value" of the abandoned vehicle;
  - (3) If the cost of towing and storage costs will exceed the determined value of the vehicle;
  - (4) That if the vehicle is not wanted for evidence or other reason, the vehicle may be reclaimed upon the payment of all accrued charges, including towing, storage and notice charges, within fourteen (14) days of the date of notice, unless the vehicle has been determined to have a value less than One Hundred Dollars (\$100.00) or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, in which case the vehicle may be reclaimed within seven (7) days upon the payment of the aforesaid charges; and
  - (5) That the owner or aforesaid secured party may, upon request, be granted a hearing relating to the determinations made with respect to said vehicle within the period that such vehicles may be reclaimed.

## **Section 10.5.4            Disposal of Abandoned Vehicles.**

Any abandoned vehicle impounded by the City which has not been reclaimed or junked or sold by direct sale to a licensed salvage dealer pursuant to the provisions of this Chapter may be sold by public auction sale or public sale calling for the receipt of sealed bids. A Class I Notice, including the description of the vehicles, the name(s) and address(es) of the Wisconsin titled owner and secured party of record, if known, and the time of sale shall be published before the sale.

## **Section 10.5.5            Report of Sale or Disposal.**

Within five (5) days after the direct sale or disposal of a vehicle as provided for herein, the Chief of Police or his/her designee shall advise the State of Wisconsin Department of Transportation, Division of Motor Vehicles, of such sale or disposal on a form supplied by said Division. A copy of the form shall be given to the purchaser of the vehicle enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have ten (10) days to remove the vehicle from the storage area but shall pay a reasonable storage fee established by the City for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten (10) days after the sale the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the City shall be made available to any interested person

or organization which makes a written request for such list to the Police Department. The Police Department may charge a reasonable fee for the list.

### **Section 10.5.6 Owner Responsible for Impoundment and Disposal Costs.**

- (a) The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the City against the owner.
- (b) Payment of removal and impoundment costs is not required when the vehicle has been impounded for purposes of law enforcement investigation.

### **Section 10.5.7 Conflict with Other Code Provisions.**

In the event of any conflict between this Section and any other provisions of this Municipal Code, this Chapter shall control.

### **Section 10.5.8 Junked Vehicles and Appliances on Private Property.**

- (a) **Storage of Automobiles Restricted.** No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery, appliances or construction debris shall be stored unenclosed upon private property within the City of Hillsboro for a period exceeding forty eight (48) hours unless it is in connection with an authorized business enterprise maintained in such a manner as to not constitute a public nuisance and in compliance with City zoning regulations.
- (b) **Definitions.**
  - (1) The term "disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers" as used in this Section is defined as follows: motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion, being operated upon the public streets or highways or which is otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.



- (2) The term "unlicensed - motor vehicles, truck bodies, tractors or trailers" as used in this Chapter is defined as follows: motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.
  - (3) The term "motor vehicle" is defined in Sec. 340.01(35), Wis. Stats.
  - (4) The term "inoperable appliance" is defined as any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.
- (c) **Exceptions.** This Section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and manner in a properly zoned area, in such a manner as to not constitute a nuisance, when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or seasonal use vehicles such as snowmobiles, motorcycles, motor scooters and nonmotorized campers, provided such vehicles are stored in compliance with the Ordinances of the City. Also excepted are motor vehicles registered pursuant to Secs. 341.265 and 341.266, Wis. Stats. In other situations the Common Council may issue a one-time temporary permit permitting an extension of not to exceed an additional thirty (30) days' time to comply with this Section where exceptional facts and circumstances warrant such extension.
- (d) **Enforcement.**
- (1) Whenever the Police Department shall find any vehicles or appliances, as described herein, placed or stored in the open upon private property within the City, they shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this Section. If said vehicles or appliance is not removed within five (5) days, the Police Department shall cause to be issued a citation to the property owner or tenant of the property upon which said vehicle or appliance is stored.
  - (2) If such vehicle or appliance is not removed within twenty (20) days after issuance of a citation, the Chief of Police or designee shall cause the vehicle or appliance to be removed and impounded, and it shall thereafter be disposed of as prescribed in Sections 10.5.3 through 10.5.6 by the Chief of Police or his/her duly authorized representative. Any cost incurred in the removal and sale of said vehicle or appliance shall be recovered from the owner. However, if the owner of the vehicle or appliance cannot readily be found, the cost of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll.
- (e) **Penalty.** Any person who shall interfere with the enforcement of any of the provisions of this Section and shall be found guilty thereof shall be subject to a penalty as provided in Section 1.1.7. Each motor vehicle or appliance involved shall constitute a separate offense.

***State Law Reference:*** Sec. 342.40, Wis. Stats.

## Title 10 - Chapter 6

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# Neighborhood Electric Vehicles

### Section 10.6.1 Neighborhood Electric Vehicles.

- (a) **Definition.** Neighborhood Electric Vehicles (NEV) means a self-propelled motor vehicle that has successfully completed the neighborhood electric vehicle America test program conducted by the Federal Department of Energy and that conforms to the definition and requirements for low speed vehicles as adopted in the Federal Motor Vehicle Safety Standards for “low-speed vehicles” under 49 CFR 571.3(b) and 571.500.
- (b) NEVs shall be 4-wheeled and have a speed range of at least 20 miles per hour and not more than 25 miles per hour on a paved surface and have a gross vehicle weight at rest of less than 2,500 pounds. NEV does not include an electric golf cart and shall have:
- (1) Headlamps;
  - (2) Front and rear turn signals;
  - (3) Stop lamps;
  - (4) Reflex reflectors: one red and each side as far to the rear as practicable, and one red on the rear;
  - (5) An exterior mirror mounted on the driver’s side and either an exterior mirror on the passenger side or an interior rearview mirror;
  - (6) Parking brake;
  - (7) A windshield that conforms to the requirements of the federal motor vehicle safety standard on glazing materials (49 CFR 571.205);
  - (8) A Vehicle Identification Number (VIN) that complies with federal law (49 CFR 565);
  - (9) A Type 1 or Type 2 seatbelt assembly conforming to 49 CFR 571.209, and Federal Motor Safety Standard No. 209, for each designated seating position; and
  - (10) Meets the general test conditions under 49 CRF 571.500(S6).
- (c) **Permitted Users of Neighborhood Electric Vehicles.** To operate an NEV, on City streets in Hillsboro, the driver must have a valid Wisconsin driver’s license, subject to all restrictions.
- (d) **Permitted Use of Neighborhood Electric Vehicles on City Streets.** A licensed individual may operate an NEV on the streets of the City of Hillsboro having a posted speed limit of 35 miles per hour or less.

- (e) **Operation of Neighborhood Electric Vehicles.** The operation of NEVs as permitted herein shall in all respects be in compliance with Title 10, Chapter 1 of the City of Hillsboro Code of Ordinances.
- (f) **License.** Neighborhood Electric Vehicles shall be licensed by the City and the license shall be issued to the owner of the vehicle. The annual fee for a license shall be set by the City Council from time to time. Licenses shall be issued by the City Clerk, and shall be valid from August 1 to July 31 each year. No partial year licenses shall be issued, and no refunds shall be made for NEVs sold before the license year ends. NEV licenses are not transferable between owners. The license shall be displayed on the rear of the Neighborhood Electric Vehicle.
- (g) **Enforcement.** The Chief of Police, or his designee, shall have authority to inspect any NEV at any time. Any defects found during the inspection must be repaired before the NEV will be allowed to continue operation in the City of Hillsboro. Repeated offences shall be subject to revocation of the NEV license. Enforcement of this ordinance regulating the use of Neighborhood Electric Vehicles within the City shall be pursuant to 10.1.90 of the City of Hillsboro Code of Ordinance. If not otherwise provided, the penalty for the unauthorized use of a Neighborhood Electric Vehicle within the City of Hillsboro shall be \$150.00 per occurrence.

# TITLE 11

## Offenses and Nuisances

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# Title 11 - Chapter 1

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## State Statutes Adopted

### Section 11.1.1      Offenses Against State Laws Subject to Forfeiture.

The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the City of Hillsboro. With the exception of Sec. 938.342, Wis. Stats., the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code. The penalty for truancy and high school dropouts shall be governed by the provisions of Sec. 938.342, Wis. Stats., as adopted herein.

29.601(3)(a)	Throwing Refuse in Waters
254.76	Careless Smoking
118.07	Safety Requirements
118.08	School Zones; Crossings
118.09	Safety Zones
118.10	School Safety Patrols
118.105	Control of Traffic on School Premises
118.11	School Fences
118.123	Reports and Records
118.163	Truancy and School Dropout Violations
134.65	Cigarette and Tobacco Products Retailer License
134.66	Restrictions on Sale or Gift of Cigarettes or Tobacco Products
167.10	Fireworks Regulated
175.25	Illegal Storage of Junked Vehicles

938.125	Jurisdiction - Juveniles Alleged to Have Violated Civil Laws or Ordinances
938.17	Jurisdiction - Juveniles - Traffic, Boating, Snowmobile and All-Terrain Vehicle Violations and Over Civil Law and Ordinance Violations
938.342	Disposition - Truancy and School Dropout Ordinance Violations
938.343	Disposition - Juvenile Adjudged to Have Violated a Civil Law or an Ordinance
938.344	Disposition - Certain Intoxicating Liquor, Beer and Drug Violations
938.345	Disposition - Juvenile Adjudged in Need of Protection or Services
254.92	Purchase or Possession of Tobacco Products Prohibited
256.35	Intentionally Dialing "911" and Making False Report
939.05(2)(b)	Aiding and Abetting
939.22	Words and Phrases Defined
940.19(1)	Battery
940.291	Failure of a Police Officer to Render Aid
940.42	Misdemeanor Intimidation of Witness's
940.44	Intimidation of Victims
941.01	Negligent Operation of a Vehicle
941.10	Negligent Handling of Burning Materials
941.12(2),(3)	Interfering With or Failing to Assist in Firefighting
941.13	False Alarms and Interference with Firefighting
941.20(1)	Reckless Use of Weapon
941.23	Carrying Concealed Weapon
941.235	Carrying a Firearm in a Public Building
941.24	Possession of Switchblade Knife
941.35	Emergency Telephone Calls
941.36	Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes
941.37(1),(2)	Obstructing Emergency or Rescue Personnel
942.01	Defamation
942.03	Giving False Information for Publication
942.05	Opening Letters
943.20(1),(2)	Theft
943.01(1)	Criminal Damage to Property
943.11	Entry Into Locked Vehicle
943.125	Entry Into Locked Coin Box
943.13	Trespass to Land
943.14	Trespass to Dwellings
943.145	Criminal Trespass to a Medical Facility
943.15	Entry Into Locked Site
943.20(1)(a)	Theft of Property
943.21(3)	Fraud on Innkeeper or Restaurant Keeper



943.22	Cheating Tokens
943.23(1)(2)	Operating Vehicle Without Owner's Consent
943.24	Issuance of Worthless Check
943.34	Receiving Stolen Property
943.37	Alteration of Property Identification Marks
943.38	Forgery
943.41	Credit Card Crimes
943.46	Theft of Cable Television Service
943.50	Retail Theft
943.55	Removal of a Shopping Cart
943.70	Computer Theft
944.15	Fornication
944.17	Sexual Gratification
944.20	Lewd and Lascivious Behavior
944.21	Obscene Material or Performance
944.23	Making Lewd, Obscene or Indecent Drawings
944.30	Prostitution
944.31	Patronizing Prostitutes
944.33	Pandering
944.36	Solicitation of Drinks Prohibited
945.01	Definitions Relating to Gambling
945.02	Gambling
945.04	Permitting Premises to be Used for Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42	Escape
946.46	Encouraging Violation of Probation or Parole
946.69	Falsely Assuming to Act as Public Officer or Employee
946.70	Impersonating Peace Officer
946.72 (2)	Tampering with Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.013	Harassment
287.81	Littering
947.06	Unlawful Assemblies
948.01	Definitions Relating to Crimes Against Children
948.09	Sexual Intercourse With a Child Age 16 or Older
948.10	Exposing a Sex Organ
948.11(1)(b),(2)(b)	Exposing a Child to Harmful Material
948.21	Neglecting a Child
948.40	Contributing to the Delinquency of a Child
948.50	Strip Search by School Employee
948.51(1),(2),(3)(a)	Hazing

948.60	Possession of a Dangerous Weapon by a Child
948.61(1),(2)	Dangerous Weapons on School Premises
948.63	Receiving Property From a Child
951.01	Definitions Relating to Crimes Against Animals
951.015	Construction and Application
951.02	Mistreating Animals
951.03	Dognapping or Catnapping
951.04	Leading Animal from Motor Vehicle
951.05	Transportation of Animals
951.06	Use of Poisonous and Controlled Substances
951.07	Use of Certain Devices Prohibited
951.08	Instigating Fights Between Animals
951.09	Shooting at Caged or Staked Animals
951.10	Sale of Baby Rabbits, Chicks and Other Fowl
951.11	Artificially Colored Animals; Sale
951.13	Providing Proper Food and Drink to Confined Animals
951.14	Providing Proper Shelter
951.15	Animals; Neglected or Abandoned; Police Powers
951.16	Investigation of Animal Cruelty Complaints
951.17	Reimbursement for Expenses
961	Uniform Controlled Substances Act

## Section 11.1.2 Penalties; Attempt; Parties to Acts.

- (a) **Penalty.** In addition to the general penalty provisions of this Code in Section 1.1.7 or any other penalty imposed for violation of any Section of this Title, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated juvenile who violates Section 11.3.1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.
- (b) **Attempt.**
- (1) Whoever attempts to commit an act prohibited by Title 11 of the Code of Ordinances of the City of Hillsboro may be required to forfeit amounts not to exceed one-half (1/2) the maximum penalty for the completed act.
  - (2) An attempt to commit an act prohibited by the ordinances in Title 11 requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he/she does acts towards the commission of the violation which demonstrate unequivocally, under all the

circumstances, that he/she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.

(c) **Parties to Acts Prohibited in Title 11.**

- (1) Whoever is concerned in the commission of an act prohibited by Title 11 of this Code of Ordinances, is a principle and may be charged with and convicted of the commission of said act although he/she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.
- (2) A person is concerned in the commission of an act prohibited by these ordinances if he/she:
  - a. Directly commits the act; or
  - b. Intentionally aids and abets the commission of it; or
  - c. Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

# Title 11 - Chapter 2

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## Offenses Against Public Safety and Peace

### Section 11.2.1 Regulation of Firearms, Explosives, and Other Missiles.

- (a) **Discharge of Firearms Regulated.** No person, except a law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, rifle, spring gun, air gun, pneumatic pellet gun, or BB gun of any description in his/her possession or under his/her control within the City of Hillsboro, provided that this Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Common Council.
- (b) **Hunting Prohibited.** Hunting within the City of Hillsboro is prohibited.
- (c) **Shooting Into City Limits.** No person shall in the territory adjacent to the City discharge any firearm in such manner that the discharge shall enter or fall within the City of Hillsboro.
- (d) **Shooting Ranges.** This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Common Council, upon the recommendation of the Chief of Police, where proper safety precautions are taken.
- (e) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City without first obtaining a permit to do so from the Common Council.
- (f) **Throwing or Shooting of Arrows, Stones, or Other Missiles Prohibited.**
  - (1) It shall be unlawful for any person to discharge or cause the discharge of any dangerous missile from any slingshot, bow and arrow or other means within three hundred (300) feet of any inhabited dwelling or building or any public park, square or enclosure.
  - (2) This Subsection shall not apply:
    - a. To the shooting or discharging of toy arrows or arrows which have a tip made of rubber or similar material.
    - b. To a supervised archery range approved by the Common Council.
    - c. Within the interior of a single family dwelling.
- (g) **Definitions.** For purposes of this Section, a firearm is defined as any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of

whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.

## **Section 11.2.2 Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited.**

(a) **Concealed Weapons Prohibited.**

(1) **Prohibition.** No person shall, within the City of Hillsboro, wear or in any manner carry under his clothes or conceal upon or about his/her person any deadly or dangerous weapon, provided this Subsection shall not apply to a peace officer or such persons as may be authorized to carry such weapons.

(2) **Dangerous Weapon Defined.** "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

(b) **Weapons in Public Establishments.** No person shall carry or be in possession of a dangerous weapon in any public building or business establishment open to the public except a bona fide weapons repair, display, or sales establishment, unless such dangerous weapon is so stored and secured (other than on the person) so as not to be readily accessible to any person or patron. This Subsection shall not apply to peace officers or others duly authorized by law acting within the scope of their duties. This Subsection shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell, or trade firearms to or from a retailer.

(c) **Specific Concealed Weapons Prohibited.**

(1) No person, except a sheriff, constable, police officer or other law enforcement officer acting within the scope of their duties, shall carry or wear concealed about his/her person any pistol, revolver, firearm, sling shot, crossknuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the City of Hillsboro.

(2) Any weapon involved in an offense under this Subsection above, may be seized and may be forwarded, within forty-eight (48) hours of seizure, to the Crime Laboratory, Division of the Wisconsin Department of Justice for examination. After examination by the Crime Laboratory, the weapon shall be returned to the City of Hillsboro Police Department. If the weapon is owned by a person convicted under this Subsection, it may be confiscated by the Hillsboro Police Department. If it is owned by a person other than the person convicted, the trial judge may decide whether such weapon shall be returned to its rightful owner or confiscated by the City of Hillsboro Police Department.

(d) **Possession, Sale, and Manufacture of Certain Weapons Prohibited.**

- (1) No person shall sell, manufacture, purchase, possess or carry metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles, a "numchuk" (also called a "nunchaku") or any similar weapon, a "cestus" or similar material weighted with metal or other substance and worn on the hand, a "churkin" (also called a "suriken") or any similar object intended to injure a person when thrown, a "sucbai" or similar weapon, a "manrikigusari" or a similar length of chain having weighted ends, or any other martial arts device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce injury or death to another person within the City of Hillsboro.
- (2) For the purpose of this Section, the following definitions shall apply:
  - a. **"Numehuk" or "Nunchaku."** An instrument consisting of two (2) or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.
  - b. **"Churkfn."** A round throwing knife consisting of several sharp points protruding from a rounded disc.
  - c. **"Sucbal."** A short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.
- (3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.

(e) **Reckless Use of Weapons.**

- (1) **Acts Prohibited.**
  - a. No person shall endanger another's safety by reckless conduct in the operation or handling of a firearm, air gun, knife or bow and arrow.
  - b. No person shall operate or go armed with a firearm, air gun, knife or bow and arrow while he/she is under the influence of an intoxicant.
  - c. No person shall intentionally point a firearm, air gun, knife or bow and arrow at or toward another person.
- (2) **Reckless Conduct Defined.** "Reckless conduct" consists of an act which creates a situation of unreasonable risk and high probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another and a willingness to take chances of perpetrating an injury.

## Section 11.2.3      Safe Use and Transportation of Firearms and Bows.

- (a) **Definitions.** In this Section:

- (1) **Aircraft** has the meaning given under Sec. 114.002(3), Wis. Stats.
  - (2) **Encased** means enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.
  - (3) **Firearm** means a weapon that acts by force of gunpowder.
  - (4) **Highway** has the meaning given under Sec. 340.01(22), Wis. Stats.
  - (5) **Motorboat** has the meaning given under Sec. 30.50(6), Wis. Stats.
  - (6) **Roadway** has the meaning given under Sec. 340.01(54), Wis. Stats.
  - (7) **Unloaded** means any of the following:
    - a. Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
    - b. In the case of a cap lock muzzle-loading firearm, having the cap removed.
    - c. In the case of a flint lock muzzle-loading firearm, having the flashpan cleaned of powder.
  - (8) **Vehicle** has the meaning given under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.
- (b) **Prohibitions; Motorboats and Vehicles; Highways and Roadways.**
- (1) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - (2) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - (3) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
  - (4) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.
  - (5) A person who violates Subsections (1) through (4) above is subject to a forfeiture pursuant to Section 1.1.7.
- (c) **Exceptions.**
- (1) Subsection (b) does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within fifty (50) feet of the center of a roadway:
    - a. A peace officer, as defined under Sec. 939.22(22), Wis. Stats.
    - b. A member of the U.S. armed forces.
    - c. A member of the National Guard.
  - (2) Subsections (b)(1), (2) and (3) do not apply to the holder of a scientific collector permit under Sec. 29.17, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.

- (3) Subsections (b)(2) and (3) do not apply to the holder of a permit under Sec. 29.193(1)(2), Wis. Stats., who is hunting from a standing automobile in accordance with that Subsection.

## **Section 11.2.4      Sale and Discharge of Fireworks Restricted.**

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the City unless he/she shall be authorized by a fireworks permit as provided in Title 7, Chapter 6, of this Code of Ordinances. The term "fireworks" as used in this Section shall be defined as provided in Sec. 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

*State Law Reference:* Sec. 167.10, Wis. Stats.

## **Section 11.2.5      Obstructing Streets and Sidewalks Prohibited.**

- (a) **Obstructing Streets.** No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the City of Hillsboro in such a manner as to:
- (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;
  - (2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or
  - (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.
- (b) **Obstructing Sidewalk Prohibited.** No person shall block any sidewalk or bridge by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.
- (c) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Hillsboro.



- (3) **Obstruct.** To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such sidewalk.
- (4) **Sidewalk.** Any sidewalk owned or maintained by the City. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.
- (d) **Free Speech.** This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two (2) or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

## **Section 11.2.6 Loitering Prohibited.**

- (a) **Public Property Loitering Prohibited.**
  - (1) No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any law enforcement officer.
  - (2) Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
  - (3) No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious conduct or any unlawful act.
  - (4) No person shall loiter in or about any school or public place at or near which children or students attend or normally congregate. As used in this Subsection, "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.
- (b) **Private Property Loitering Prohibited.**
  - (1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places. No person shall loiter in or about the doorway, stairway, steps or entrance of any business place of private residence without the expressed consent of the owner thereof, or at any time other than usual business hours. Under this Subsection, business place shall include public building at such times that the same shall be closed for the usual and normal business conduct thereat.
  - (2) Upon being requested to move by any such person in authority or by any police officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

- (3) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the expressed consent of the owner thereof, whether such be parked upon a public street, alley, parking lot, driveway or private premises.
  - (4) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.
- (c) **Loitering or Prowling Prohibited:**
- (1) No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself/herself or manifestly endeavors to conceal himself/herself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him/her to identify himself/herself and explain his/her presence and conduct. No person shall be convicted of an offense under this Subsection if the law enforcement did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the law enforcement officer at the time, would have dispelled the alarm.
  - (2) No person shall hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building, or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.
  - (3) No person shall lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.
  - (4) No person shall loiter in or about a restaurant, tavern or other public building. As used in this Subsection, "loiter" means to, without just cause, remain in a restaurant, tavern or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.
- (d) **Loitering by Underage Persons Where Alcohol Beverage is Dispensed.**
- (1) ***Underage Persons and Intoxicants.*** No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
  - (2) ***Permitting Loitering Prohibited.*** No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

- (e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Hillsboro.
- (f) **Soliciting.** No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, that such person repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or produce another to commit an act of prostitution. No arrest shall be made for a violation of this Subsection unless the law enforcement officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this Subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this Subsection:
- (1) **Public Place** is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorway and entrance to buildings or dwellings and the grounds enclosing them.
  - (2) **Known Prostitute or Panderer** means a person who, within five (5) years previous to the date of arrest for violation of this Section, had, within the knowledge of the sworn police officer, been convicted in any municipal court or circuit court in the State of Wisconsin of an offense involving prostitution.

## **Section 11.2.7 Loud and Unnecessary Noise Prohibited.**

- (a) **Loud and Unnecessary Noise Prohibited.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise. It shall be unlawful for any person knowingly or wantonly to use or operate, or to cause to be used or operated any mechanical device, machine, cassette or CD player, apparatus or instrument for intensification or amplification of the human voice, music or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed.

- (b) **Types of Loud and Unnecessary Noises.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:
- (1) ***Horns, signaling devices.*** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the City for longer than three (3) seconds in any period of one (1) minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.
  - (2) ***Radios, phonographs, similar devices.*** The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the properly line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.
  - (3) ***Loudspeakers, amplifiers for advertising.*** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
  - (4) ***Animals, birds.*** The keeping of any animal or bird which causes frequent or long continued unnecessary noise.
  - (5) ***Steam whistles.*** The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper City authorities.
  - (6) ***Exhausts.*** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
  - (7) ***Construction or repair of buildings.*** The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the Chief of Police shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary

within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.

- (8) **Schools, courts, churches, hospitals.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street. No person, while on public or private grounds adjacent to any building, or while within any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order and operation of such school session or class thereof.
- (9) **Exceptions.** The provisions of this Section shall not apply to:
  - a. Any vehicle of the City while engaged in necessary public business.
  - b. Excavations or repairs of streets or other public construction by or on behalf of the City, County, or State at night when public welfare and convenience renders it impossible to perform such work during the day.
  - c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.

(c) **Stationary Noise Limits.**

(1) **Maximum Permissible Sound Levels.**

- a. Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels measured at the property line.

<b>Zone</b>	<b>Noise Rating - Daytime</b>	<b>Noise Rating - Nighttime</b>
Residential	60 db	50 db
Commercial	70 db	70 db
All Other Zones	75 db	75 db

- b. Ambient noise is the all-encompassing noise associated with a given source, usually being a composite of sounds with many sources near and far, but excluding the noise source being measured. Ambient noise is a factor and the subject noise shall exceed the ambient noise by 5 db in any octave band to be designated excessive.
  - c. Pure tones and impulsive noises are factors. Five (5) noise rating numbers shall be taken from the table in Subsection (c)(1)a above, if the subject noise consists primarily of a pure tone or if it is impulsive in character.
- (2) **Construction Noise.** Construction equipment in any zone may be operated between the hours of 7:00 a.m. to 7:00 p.m., provided that said equipment does not exceed a maximum sound pressure level of 80 dB(a) measured at the property line of the location at which said equipment is in use.
  - (3) **Noise in Residential Districts.** In Residential Zones, the person in violation of this Section shall be ordered to reduce the sound pressure to acceptable levels immediately by the monitoring officer.

- (4) **Operation of Certain Equipment.** Lawnmowers, chainsaws, powered garden equipment, electric insect killing/repelling devices, and other non-construction maintenance equipment shall be operated only during the hours between 7:00 a.m. and 9:00 p.m. unless within the specified noise levels measured at the property line of the location at which said equipment is in use.
  - (5) **Exemptions.** Operation of emergency equipment shall be exempt from this Chapter. Snowblowers not operated on a commercial basis shall be exempt from this Chapter when used to gain access to a City street. Emergency equipment shall include ambulance, police, fire, snow removal, civil defense sirens, etc., necessary for the health, safety, and protection of the citizens of the City.
  - (6) **Methods of Measuring Noise.**
    - a. **Equipment.** Noise measurement shall be made with a sound level meter.
    - b. **Location of Noise Meter.** Noise measurement shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three (3) feet above the ground and at least three (3) feet away from walls, barriers, obstructions, and all other sound reflective surfaces.
  - (7) **Appeals.** The Common Council may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this Chapter for existing industries.
- (d) **Permits for Amplifying Devices.**
- (1) **Permit Required.** The use of loudspeakers or amplifying devices on the streets or in the parks of the City of Hillsboro is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the Chief of Police.
  - (2) **Grounds or Reasons for Denial or Allowance.** The Chief of Police shall have the authority to revoke such permit when he/she believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.
  - (3) **Time Restrictions.** The Chief of Police shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after 10:00 p.m. No permit shall be granted to anyone who, in the opinion of the Chief of Police, uses said loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance.

## **Section 11.2.8      Disorderly Conduct.**

- (a) **Disorderly Conduct Prohibited.** No person within the City of Hillsboro shall:

- (1) In any public or private place engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to annoy or disturb any other person;
  - (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation;
  - (3) With intent to annoy another, make a telephone call, whether or not conversation ensues;
  - (4) Indecently expose his or her person;
  - (5) Be in any business or private structure, private vehicle or upon any private grounds without the consent of the owner.
- (b) **Defecating or Urinating in Public Places.** It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the City, or upon any private property in open view of the public, or in the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings, or to indecently expose his person.

## **Section 11.2.9            Unauthorized Presence on School Property.**

- (a) **Unauthorized Presence.**
- (1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him/her from attending any school located within the City or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person," shall be present within any school building or upon any school grounds without having first secured authorization to be there from the principal or other person in charge of the school building or school grounds, or in direct route to secure such authorization.
  - (2) Any unauthorized person who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal, in addition to violating Subsection (a)(1), shall be guilty of trespass.
  - (3) "Authorized person" shall include:
    - a. Any person who is present at any school building or school grounds for the purpose previously authorized by the school or their designee;
    - b. Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel;
    - c. Any person utilizing a designated area for attending an athletic or other organized school event.
- (b) **Disorderly Conduct on Public School Property.**

- (1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
  - (2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School System's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.
  - (3) All entrances to the school buildings referred to in Subsection (a) shall be posted by the School Board with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."
  - (4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a City summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property.
- (c) **Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the City of Hillsboro or upon any Hillsboro School District grounds or within adjacent posted school zones on any day when such schools are in session.
- (d) **Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property.
- (e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.
- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Hillsboro.

## **Section 11.2.10      Failure to Obey Lawful Order; Resisting an Officer.**



- (a) **Lawful Orders.** It shall be unlawful for any person to fail to obey the direction or order of a law enforcement officer while such law enforcement officer is acting in an official capacity in carrying out his or her duties.
- (b) **Resisting or Interfering with Officer Prohibited.** It shall be unlawful for any person to resist, obstruct, or in any way interfere with any law enforcement officer or member of the Police Department or any person called to assist such officer, or to threaten, resist or interfere with such officer or person or to advise or encourage any other person to resist or interfere with such officer or person in the discharge of his/her duty, or to in any way interfere with or hinder or prevent him/her from discharging his/her duty as such officer or assistant, or to offer or endeavor to do so, or to in any manner assist any person in the custody of any law enforcement officer to escape or to attempt to escape from such custody, or to try to persuade any person to escape from the custody of such officer, or to rescue or attempt to rescue any person so in custody or to fail to obey the order or direction of such officer while such officer is acting in his/her official capacity in carrying out his/her duties.

### **Section 11.2.11 Possession of Controlled Substances; Marijuana and Chemical Synthetic Cannabinoid.**

- (a) **Possession of Controlled Substances.** It is unlawful for any person to possess a controlled substance, other than a controlled substance classified in schedule I and II under Chapter 961, Wis. Stats., which is a narcotic drug, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his/her professional practice, or except as otherwise authorized by this Code of Ordinances.
- (b) **Possession of Marijuana.**
  - (1) No person shall possess twenty-five (25) grams or less of marijuana, as defined in Sec. 961.01, Wis. Stats., unless it was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by Chapter 961, Wis. Stats.
  - (2) For purposes of this Section, "practitioner" means:
    - a. A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.
    - b. A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.
  - (3) This Section does not apply to any person who is charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any

amount of marijuana following a conviction for possession of any amount of marijuana, in the State of Wisconsin.

- (c) **Possession, Use, Manufacture and Delivery of Chemical Synthetic Cannabinoid Prohibited.** It shall be unlawful for any person to use, possess, purchase, attempt to purchase, sell, deliver or barter any chemical synthetic cannabinoid, including all parts of the plant presently classified botanically as salvia divinorum or salvinorum A.

- (1) **Definition.** In this section, chemical synthetic cannabinoid shall mean any product designed to produce intoxicating effects similar to that of THC or Marijuana, including, but not limited to:

- a. "Spice", "K-2", "Yucatan Fire", "Fake" or "New Marijuana", or by any other name, label or description.
- b. Salviadivinorum or Salvinorum A, including all parts of the plant salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of said plant and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts.
- c. (6aR)-9 (hydroxymethyl)-6, 6dimethyl-3 (2methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo(c)chromen-1-ol, some trade or other names: HU-210.
- d. 1-Pentyl-3-(1-naphthoyl) indole-some trade or other names: JWH-018/spice.
- e. 1-Butyl 3-(1-naphthoyl) indole-some trade or other names: JWH-073
- f. 1-(3)(triflouromethylphenyl) piperazine-some trade or other names: TFMPP.
- g. Any similar structural analogs designed to produce the same or similar effects.

- (d) **Possession, Manufacture and Delivery of Drug Paraphernalia Prohibited.**

- (1) **Definition.** In this Section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance, as defined in Ch. 961 Wis. Stats. in violation of this Section. It includes but is not limited to:

- a. Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- b. Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, or preparing controlled substances.
- c. Isomerization devices used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
- d. Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.

- e. Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
  - f. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
  - g. Separation gins and sifters used, intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
  - h. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding substances.
  - i. Capsules, balloons, envelopes, or other containers, used, intended for use, or designed for use, in packaging small quantities of controlled substances.
  - j. Containers and other objects used, intended for use, or designed for use, in storing or concealing controlled substances.
  - k. Hypodermic syringes, needles, or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
  - l. Objects used, intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, into the human body, including but not limited to:
    1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
    2. Water pipes;
    3. Carburetion tubes and devices;
    4. Smoking and carburetion masks;
    5. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
    6. Miniature cocaine spoons and cocaine vials;
    7. Chamber pipes;
    8. h. Carburetor pipes;
    9. Electric pipes;
    10. Air-driven pipes;
    11. Chillums;
    12. Bongs;
    13. Ice pipes or chillers.
- (e) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of such other considerations a court may deem relevant:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
  - (2) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
  - (3) The proximity of the object in time and space to a direct violation of this Section.

- (4) The proximity of the object to controlled substances.
  - (5) The existence of any residue of controlled substance on the object.
  - (6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
  - (7) Oral or written instructions provided with the object concerning its use.
  - (8) Descriptive materials accompanying the object which explain or depict its use.
  - (9) National and local advertising concerning its use.
  - (10) The manner in which the object is displayed for sale.
  - (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
  - (12) The existence and scope of legitimate uses for the object in the community.
  - (13) Expert testimony concerning its use.
- (f) **Prohibited Uses.**
- (1) ***Possession of Drug Paraphernalia.*** No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this Subsection.
  - (2) ***Manufacture or Delivery of Drug Paraphernalia.*** No person may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this Subsection.
  - (3) ***Exemption.*** This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 961, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 961, Wis. Stats.
  - (4) ***Penalties.*** Any person who violates any part of Sec. 11.2.11 shall be subject to a first offense fine of no more than three hundred dollars (\$300) plus court costs. Second offense, no more than four hundred and fifty dollars (\$450) plus court costs. Third offense, no more than six hundred fifty dollars (\$650) plus court costs.
  - (5) ***K-9 Fund.*** A fund for the Hillsboro K-9 Unit shall be established, and of the fines listed in Section (4) the following amounts will be placed into the K-9 fund account:
    - First offense: \$50.
    - Second offense: \$100.
    - Third and greater offense: \$200.

*State Law Reference:* Chapter 961, Wis. Stats.

## **Section 11.2.12 Crossing a Police Line.**

No individual shall cross a police or fire line that has been so designated by banner, signs or other similar identification.

## **Section 11.2.13 Harassment.**

- (a) **Harassment.** No person, with intent to harass or intimidate another person, shall do any of the following: each instance shall be considered a separate violation:
- (1) Strike, shove, kick or otherwise subject the person to physical contact or attempts or threatens to do the same.
  - (2) Engage in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose. This may include repeatedly sending information, messages, or data by electronic means with the intent to harass or intimidate another person.
- (b) **Harassing or Obscene Telephone Calls.** Whoever commits any of the following acts shall be subject to the general penalty as provided in this Code of Ordinances:
- (1) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent;
  - (2) Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;
  - (3) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;
  - (4) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers;
  - (5) Knowingly permits any telephone under his/her control to be used for any purpose prohibited by this Section;
  - (6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

## **Section 11.2.14 Open Cisterns, Wells, Basements or Other Dangerous Excavations Prohibited.**

No person shall have or permit on any premises owned or occupied by him/her any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All

such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children.

### **Section 11.2.15 Gambling, Lotteries, Fraudulent Devices and Practices Prohibited.**

All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the City, except as provided by state law. Any law enforcement officer of the City may seize anything devised solely for unlawful gambling or found in actual use for gambling within the City and dispose thereof after a judicial determination that such device was used solely for gambling or found in actual use for gambling.

### **Section 11.2.16 Obstructing Emergency or Rescue Personnel.**

- (a) **Definitions.** For the purposes of this Section, the following definitions apply to the terms as used herein:
- (1) **Ambulance.** An emergency vehicle, including any motor vehicle, boat or aircraft, whether privately or publicly owned, which is designated, constructed or equipped to transport patients.
  - (2) **Ambulance Service Provided.** A person engaged in the business of transporting sick, disabled or injured persons by ambulance to or from facilities or institutions providing health services.
  - (3) **Ambulance Attendant.** A person who is responsible for the administration of emergency care procedures, proper handling and transporting of the sick, disabled or injured persons, including but not limited to, ambulance attendants and ambulance drivers.
  - (4) **Person.** Any individual, firm, partnership, association, corporation, trust, foundation, company, any governmental agency other than the U.S. government, or any group of individuals, however named, concerned with the operation of an ambulance.
  - (5) **Authorized Emergency Vehicle** means any of the following:
    - a. Police vehicles, whether publicly or privately owned;
    - b. Conservation wardens' vehicles or foresters' trucks, whether publicly or privately owned;
    - c. Vehicles of a fire department or fire patrol;
    - d. Privately owned motor vehicles being used by deputy state fire marshals or by personnel of a full-time or part-time fire department or by members of a

- volunteer fire department while en route to a fire or on an emergency call pursuant to orders of their chief or other commanding officer;
- e. Such emergency vehicles of municipal or county departments or public service corporations as are designated or authorized by the local authorities to be authorized emergency vehicles.
  - f. Such emergency vehicles of state departments as are designated or authorized by the heads of such departments to be authorized emergency vehicles;
  - g. Such ambulances, publicly owned, as are designated or authorized by local authorities to be authorized emergency vehicles;
  - h. Such ambulances which are privately owned and are operated by owners or their agents and which vehicles are authorized by the sheriff or others designated by the county board to be operated as emergency vehicles. The sheriff or others designated by the county board may make such authorization which shall be in writing and which shall be effective throughout the state until rescinded. The sheriff or others designated by the county board may designate any owner of ambulances usually kept in the county to operate such vehicles as authorized emergency vehicles. Such written authorization shall at all times be carried on each ambulance used for emergency purposes. The sheriff shall keep a file of such authorizations in his office for public inspection, and all other persons permitted to issue authorizations shall file a copy of all authorizations issued with the sheriff who shall keep them on file;
- (6) ***Emergency Medical Personnel.*** Any emergency medical personnel, ambulance attendant, peace officer or fire fighter, or other person operating or staffing an ambulance or an authorized emergency vehicle.
- (7) ***Bonafide Emergency or Bonafide Request for Emergency Services.*** Those circumstances wherein the caller reasonably believes that person(s) and or property may be in actual or potential danger of injury, and in the case of person(s), in danger of illness.
- (b) **Prohibitions.** It is the intent of the City of Hillsboro, in its adoption of this provision, to protect against the foregoing activities in a manner consistent with that provided by Sec. 941.37, Wis. Stats. The following acts are prohibited and perpetration thereof subjects the violator to penalty as provided by Section 1.1.7:
- (1) Knowingly obstructing any emergency medical personnel in the performance of duties relating to an emergency or rescue;
  - (2) Intentionally interfering with any medical personnel in the performance of duties relating to an emergency or rescue, when it is reasonable that the interference may endanger another's safety;
  - (3) Knowingly making any telephone call to any emergency medical personnel, police agency or fire department for any purpose other than to report a bona fide emergency or to make a bona fide request for emergency services.

## Title 11 - Chapter 3

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### Offenses Against Property

#### Section 11.3.1 Destruction of Property Prohibited.

- (a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy, or unlawfully remove or interfere with any property belonging to the City of Hillsboro, the Hillsboro School District, or to any private person without the consent of the owner or proper authority, nor shall any person or organization place or permit to be placed any sign, poster, advertisement, notice, or other writing upon any utility ornamental light pole belonging to the City without the consent of proper authority. Any signs, posters, advertisements, notices, or other writings so placed shall be removed by law enforcement authorities and the placing person or organization cited for violation of this Section.
- (b) **Parental Liability.** Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00).
- (c) **Penalty Provisions.**
  - (1) Any person eighteen (18) years of age or over who violates this Section is subject to a penalty as provided in Section 1.1.7, restitution to the injured party, and the costs of prosecution.
  - (2) Any person twelve (12) years of age to seventeen (17) years of age shall be subject to a forfeiture not to exceed Twenty-five Dollars (\$25.00) and any other applicable penalty provided by Sec. 48.344, Wis. Stats., as that Section may exist, be amended or changed.
- (d) **Victim Remedies.** Any person or entity injured by a violation of this Section by a minor child shall be advised of the rights and remedies available under Sec. 895.035, Wis. Stats.

#### Section 11.3.2 Littering Prohibited.

- (a) **Littering Prohibited.** No person or persons shall or shall permit or allow any other person to deposit, discharge, release or abandon any solid waste as that term is defined at Sec. 289.01(33), Wis. Stats., on any City street, alley, park or other municipal or



governmental property, nor on property owned by another person, nor in or upon the surface of any body of water in the City of Hillsboro.

(b) **Litter From Conduct of Commercial Enterprise.**

(1) **Scope.** The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.

(2) **Litter to be cleaned up.** Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.

(3) **Litter picked up at litterer's expense.** If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the City shall arrange to have the same picked up by City crews or by private enterprise. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the City Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.

(c) **Depositing of Materials Prohibited.** It shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, grass, leaves, foliage, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Common Council, law enforcement officer, Building Inspector or Superintendent of Streets to the provisions of this Code of Ordinances, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.

(d) **Handbills.**

(1) **Scattering Prohibited.** It shall be unlawful to deliver any handbills or advertising material to any premises in the City except by being handed to the recipient, placed on the porch, stoop or entrance way of the building or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.

(2) **Papers in Public Places Prohibited.** It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

(e) **Transport Standards.** Any person, individual or licensed carrier hauling refuse, garbage, rubbish, ashes, etc., through or upon the streets of the City enroute to an

authorized landfill or recycling center must have all refuse covered or enclosed in plastic bags or covered containers or in a covered vehicle so as not to litter the streets.

*State Law Reference:* Sec. 289.01(33), Wis. Stats.

### **Section 11.3.3      Abandoned Refrigerators Prohibited.**

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his/her control in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his/her agent and is securely locked or fastened.

### **Section 11.3.4      Theft of Library Material.**

- (a) **Definitions.** For the purposes of this Section, certain words and terms are defined as follows:
- (1) **Archives.** A place in which public or institutional records are systematically preserved.
  - (2) **Library.** Means any public library, library of an educational or historical organization or society or museum, and specifically the public libraries within the City of Hillsboro and school libraries.
  - (3) **Library Material.** Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documents, written or printed materials, regardless of physical form of characteristics, belonging to, on loan to or otherwise in the custody of a library.
- (b) **Possession Without Consent Prohibited.** Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code. The failure to return library material after its proper return date, after written notice from the library and City Attorney, shall be deemed to be theft. Notice shall be considered given when written notice is mailed to the last-

- known address of the person with the overdue material; the notice date shall be the date of mailing.
- (c) **Concealment.** The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.
  - (d) **Detention Based on Probable Cause.** An official or adult employee or agent of a library who has probable cause for believing that a person has violated this Section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a law enforcement officer or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls, but shall not be interrogated or searched against his or her will before the arrival of a law enforcement officer who may conduct a lawful interrogation of the accused person. Compliance with this Section entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
  - (e) **Damaging Material Prohibited.** No person shall mar, deface or in any other way damage or mutilate any book, periodical, pamphlet, picture or other article or property belonging to or in charge of the library. Any person convicted of violating this Subsection shall be subject to the penalties as set forth in Section 1.1.7.
  - (f) **Return Demanded.** No person shall fail, on demand, to return any book periodical, pamphlet, picture or other articles or property belonging to or in charge of the Public Library according to the rules or regulations duly made and adopted by the Library Board and no person shall remove from the library any book, periodical, pamphlet, picture or other articles or property without first having it charged as provided by such rules and regulations. Any person convicted of violating any provision of this Subsection shall be subject to the penalties as set forth in Section 1.1.7.

*State Law Reference:* Sec. 943.61, Wis. Stats.

## **Section 11.3.5      Damage to Public Property.**

- (a) **Damaging Public Property.** No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure,

- damage or deface any public building, sidewalk or other public property in the City of Hillsboro.
- (b) **Breaking of Street Lamps or Windows.** No person shall break glass in any street lamps or windows of any building owned or occupied by the City.
  - (c) **Damaging Fire Hydrants and Water Mains.** No person shall, without the authority of City authorities, operate any valve connected with the street or water supply mains, or open any fire hydrant connected with the water distribution system, except for the purpose of extinguishing a fire. No person shall injure or impair the use of any water main or fire hydrant.

### **Section 11.3.6      Retail Theft.**

- (a) Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without consent and with intent to deprive the merchant permanently of possession or the full purchase price may be penalized as provided in Subsection (d).
- (b) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.
- (c) A merchant or merchant's adult employee who has probable cause for believing that a person has violated this Section in his/her presence may detain such person in a reasonable manner for a reasonable length of time to deliver him/her to a law enforcement officer, or to his/her parent or guardian if a minor. The detained person must be promptly informed of the purpose for the detention and may make phone calls, but he/she shall not be interrogated or searched against his/her will before the arrival of a law enforcement officer who may conduct a lawful interrogation of the accused person. Compliance with this Subsection entitles the merchant or his/her employee affecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
- (d) If the value of the merchandise does not exceed One Hundred Dollars (\$100.00), any person violating this Section shall forfeit not more than One Thousand Dollars (\$1,000.00). If the value of the merchandise exceeds One Hundred Dollars (\$100.00), this Section shall not apply and the matter shall be referred to the District Attorney for criminal prosecution.

*State Law Reference:* Sec. 943.50, Wis. Stats.

## Section 11.3.7 Issuance of Worthless Checks.

- (a) **Violations.** Whoever issues any check or other order for the payment of money less than One Thousand Dollars (\$1,000.00) which, at the time of issuance, he or she intends shall not be paid is guilty of a violation of this Section.
- (b) **Prima Facie Evidence.** Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for payment of money intended it should not be paid:
  - (1) Proof that, at the time of issuance, the person did not have an account with the drawee; or
  - (2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order; or
  - (3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order.
- (c) **Exceptions.** This Section does not apply to a post-dated check or to a check given in past consideration, except a payroll check.
- (d) **Returned Check Fee.** In the event a person issues a check to the City, and does not have sufficient funds or credit such that the check is returned unpaid, such person shall pay the check or other order and shall also pay a fee as set by Resolution of the Hillsboro City Council and amended from time to time.
- (e) **Penalties.**
  - (1) In addition to any other penalties provided for under Section 1.1.7, a judge may order a violator of this Section to pay restitution to a victim. In determining the method of payment the Court shall consider the financial resources and future ability of the violator to pay. The court shall provide for payment of an amount equal to the pecuniary loss caused by the offense. Upon the application of an interested party, the Court shall schedule and hold an evidentiary hearing to determine the value of the victim's pecuniary loss resulting from the offense. A victim may not be compensated under this Section and under Sec. 943.245, Wis. Stats.
  - (2) In this Section, "pecuniary loss" means:
    - a. All special damages, but not general damages, substantiated by evidence in the record, which a person could recover against the violator in a civil action arising out of the facts or events constituting the violator's criminal activities, including, without limitation because of enumeration, the money equivalent of loss resulting from property taken, destroyed, broken or otherwise harmed and out-of-pocket losses, such as medical expenses; and

- b. Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of the offense.

### **Section 11.3.8      Trespass.**

- (a) **Trespass to Land.** No person shall enter or remain on any land after having been notified by the owner or occupant not to remain on the premises.
- (b) **Trespass Without Consent.** Without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace, it shall be unlawful for any person to intentionally:
  - (1) Enter any enclosed or cultivated or improved land of another; or
  - (2) Enter a structure of another. For the purposes of this Section the term "structure" shall be defined as including any building, dwelling or other man-made structure situated upon real property located in the City.

### **Section 11.3.9      Regulation of Smoking.**

- (a) **State Statute Adopted.** The provisions of Chapter 101.123, Wis. Stats., relating to the Regulation of Smoking and Clean Indoor Air, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Section as is fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Section. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Section.
- (b) **Smoking Prohibited Within or Upon All Buildings and Equipment Owned, Leased or Rented by the City.** In recognition of a need to protect the health and comfort of the public and City employees from the detrimental effects of smoking, pursuant to the authority granted to the City by Sec. 101.123(2)(c), Wis. Stats., smoking as defined by Sec. 101.123(1)(h), Wis. Stats., is hereby prohibited by any person within or upon all buildings and enclosed equipment owned, leased or rented by the City of Hillsboro, except in designated areas.
- (c) **State Statutes Adopted.** The provisions contained in Sec. 120.12(20), Wis. Stats., regulating smoking on school premises are adopted by reference and made a part of this Section as though set forth in full.
- (d) Any person who violates this Section shall be subject to a forfeiture of One Hundred Dollars (\$100.00). Each separate incident or occurrence shall be a separate offense.

## Section 11.3.10 Theft Prohibited.

- (a) **Acts.** Whoever does any of the following may be penalized as provided in Section 1.1.7 of this Code of Ordinances:
- (1) Intentionally takes and carries away, uses, transfers, conceals or retains possession of movable property of another without his/her consent and with intent to deprive the owner permanently of possession of such property.
  - (2) By virtue of his/her office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals or retains possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his/her authority, and with intent to convert to his/her own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his/her possession or custody by virtue of his/her office, business or employment, or as trustee or bailee, upon demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his/her own use within the meaning of this Subsection.
  - (3) Having a legal interest in movable property, intentionally and without consent, take such property out of the possession of the pledgee or such other person having a superior right of possession with intent thereby to deprive the pledgee or other person permanently of the possession of such property.
  - (4) Obtains title to property of another by intentionally deceiving him/her with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.
  - (5) Intentionally fails to return any personal property which is in his/her possession or under his/her control by virtue of a written lease or written rental agreement, within ten (10) days after the lease or rental agreement has expired.
- (b) **Definitions.** The following definitions shall be applicable in this Section:
- (1) **Property** means all forms of tangible property, whether real or personal, without limitation including electricity, gas and documents which represent or embody a choice in action or other intangible rights.
  - (2) **Movable Property** is property whose physical location can be changed, without limitation, including electricity and gas, documents which represent or embody intangible rights, and things growing on or affixed to or found in land.
  - (3) **Value** means the market value at the time of the theft or the cost to the victim of replacing the property within the reasonable time after the theft, whichever is less, if the property stolen is a document evidencing a choice in action or other intangible right; value means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave

consideration for or had a legal interest in the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

- (4) **Property of Another** includes property in which the actor is a co-owner and property of a partnership of which the actor is a member unless the actor and the victim are husband and wife.

### **Section 11.3.11      Fraud On Residential Landlords Prohibited.**

- (a) **Prohibited Acts.** Any person who, with intent to defraud, does any of the following shall be guilty of violating this Section:
  - (1) Intentionally absconds without paying rent that has been contractually agreed upon in an oral or written lease with a landlord. Prima facie evidence of intentionally absconding will be established if a tenant fails to pay rent due prior to the vacating of the rental premise by the tenant, and the non-payment of said rent continues for a period of five (5) days after vacation of the premise; or
  - (2) Issues any check, money order or any other form of bank or monetary draft as a payment of rent, where such document lacks sufficient funds, where the account is closed, or where such draft is unredeemable in any other form or fashion. Prima facie evidence of intention to defraud will be established if a tenant fails, within five (5) days of a written demand by the landlord or agent, to pay in full the total amount of the draft presented as rent payment plus any bank charges to the landlord attributable to the unredeemability of the draft.
- (b) **Applicability.** This Section shall apply to rental agreements between residential landlords and tenants only. The words and terms used in this Section shall be defined and construed in conformity with the provisions of Chapter ATCP 134, Wis. Adm. Code, and Chapter 704, and Sec. 990.001(1), Wis. Stats. The act of service by a landlord of a legal eviction notice or notice to terminate tenancy shall not, in itself, act as a bar to prosecution under this Section.
- (c) **Procedure.** An officer may issue a citation only when the complainant provides the following:
  - (1) The name and current address of the tenant, a copy of the subject lease agreement, or sworn testimony of the terms of the subject oral lease.
  - (2) The amount of rent due, the date it was due, the date the tenant actually vacated the premise, and testimony that the rent remained unpaid for not less than five (5) days after vacating and that the tenant did not notify or attempt to notify the complainant of the tenant's new address, or that the tenant knowingly gave the complainant a false address.
  - (3) As to an unredeemable payment, the document used for attempting rent payment, the written demand for payment of the full amount plus bank charges, proof that the



tenant received the written demand, and testimony that at least five (5) days have elapsed since the demand was received and no payment has been made.

*State Law Reference:* Chapter 704 and Sec. 990.001(1), Wis. Stats.; Ch. ATCP 134, Wis. Adm. Code.

## Section 11.3.12 Graffiti.

- (a) **Definition.** "Graffiti" is any drawing, figure, inscription, symbol, or other marking which is scratched, painted, drawn in pen or marker, or placed by some other permanent or semipermanent means upon sidewalks, streets, public or private structures or any other place in public view without the express permission or consent of the property owner.
- (b) **Public Nuisance.** Graffiti is hereby declared to be a public nuisance, as defined under Title 11, Chapter 6 of this Code, affecting peace and safety.
- (c) **Prohibitions.** No person shall write, spray, scratch or otherwise affix graffiti upon any property whether private or public without the consent of the owner or owners of said property. Any person who shall affix graffiti to any property without the consent of the owner shall be liable for the costs of removing or covering such graffiti in addition to any fines imposed for violating this Section. The parents of any unemancipated minor child who affixed graffiti shall be held liable for the cost of removing or covering said graffiti in accordance with Sec. 895.035, Wis. Stats.
- (d) **Removal By Property Owner.**
  - (1) Every owner of a structure or property defaced by graffiti shall cover or remove the graffiti within fifteen (15) days in compliance with written notice served upon them by the Police Department to remove or cover such graffiti.
  - (2) In the event any owner fails to comply with the above-mentioned notice, the Police Department may have the graffiti covered or removed, and in such event, all costs, fees and expenses will be assessed to said owners real estate taxes pursuant to Sec. 66.0703, Wis. Stats.

## Section 11.3.13 Cemetery Regulations.

- (a) **Purpose and Definition.** In order to protect cemetery areas within the City from injury, damage or desecration, these regulations are enacted. The term "cemetery" as hereinafter used in this Section shall include all cemetery property, grounds, equipment and structures, both privately and publicly owned, which are located within the City of Hillsboro.
- (b) **Authority to Establish Rules and Regulations.** The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern

the operation of any cemetery in accordance with state law and this Code of Ordinances. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the cemetery property owner.

(c) **Specific Regulations.**

- (1) ***Disturbing Cemetery Property.*** No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property except the owner of the cemetery lot or a person with the cemetery lot owner's consent or any cemetery employee or representative engaged in official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the owner's consent.
- (2) ***Protection of Cemetery Property.*** No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb, any animals, birds or waterfowl, wild or domestic within any cemetery in any matter except as provided by this Code of Ordinances; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery. No picnic, parties, or similar gatherings are permitted.
- (3) ***Motor Vehicles.*** Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any offroadway operation of a motorized vehicle on cemetery property without the owner's consent.
- (4) ***Speed Limit.*** No person shall operate any motorized vehicle in any cemetery in excess of fifteen (15) miles per hour unless otherwise posted.
- (5) ***Parking.*** No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.
- (6) ***Littering Prohibited.*** No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.

- (7) **Pets.** Pets, including animals of any species, and horses are prohibited in any cemetery.
- (8) **Sound Devices.** No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.
- (9) **Authorized Notices.** No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except cemetery regulations and other signs authorized by the owner. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.
- (10) **Loitering Prohibited.** No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.
- (11) **Alcoholic Beverages Prohibited.** No person shall consume or have in his/her possession any open container containing an alcohol beverage upon any cemetery property within the City unless the property is specifically named as being part of a licensed premises.
- (12) **Play Vehicles Prohibited.** No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.
- (13) **Presence After Hours Prohibited.** No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.

### **Section 11.3.14      Damaging or Tampering With Coin Machines.**

- (a) No person shall, without lawful authority, open, remove or damage any coin machine, coin telephone or other vending machine dispensing goods or services, or a part thereof, or possess a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services, or possess a drawing, print or mold of a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services within the limits of the City of Hillsboro.
- (b) In this Section, coin machine means any device or receptacle designed to receive money or anything of value. The term includes a depository box, parking meter, vending machine, pay telephone, money-changing machine, coin-operated phonograph and amusement machine if they are designed to receive money or other thing of value.

### **Section 11.3.15 Tampering With Cable Equipment.**

A person who willfully or maliciously damages, or causes to be damaged, any wire, cable, conduit, apparatus or equipment of the Grantee, or who commits any act with intent to cause damage to any wire, cable, conduit, apparatus or equipment of the Grantee, or who taps, tampers with, or connects any wire or device to a wire, cable, conduit or equipment of the Grantee with intent to obtain a signal or impulse therefrom without authorization of the Grantee, shall be subject to a forfeiture as prescribed by Section 1.1.7 as determined by the Court and shall be liable in a civil action for three (3) times the actual amount of damages sustained thereby, but this Section shall not prevent a public utility from removing, disconnecting or otherwise rendering inoperable any of Grantee's apparatus or equipment attached or in any way connected to such public utility's facilities, if done for reasonable cause.

# Title 11 - Chapter 4

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## Offenses Involving Alcoholic Beverages

### Section 11.4.1 Outside Consumption.

(a) **Alcoholic Beverages in Public Areas.**

- (1) **Regulations.** It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, park, municipal building, library, cemetery or drives or other public area within the following described territory in the City of Hillsboro or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in his/her possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, park, municipal building, library, public alley or public parking lot within the City of Hillsboro.
- (2) **Private Property Held Out For Public Use.** It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the City unless the property is specifically named as being part of a licensed premises.
- (3) **Exceptions.**
  - a. The provisions of this Section may be waived by the Common Council for duly authorized events. Fraternal and service clubs and other organizations may apply for a permit to have meetings, festivals and activities held on the public streets or in public areas so that alcoholic beverages and fermented malt beverages may be consumed during the time permitted as designated on the permit. Such permit applications shall be made to the Common Council on forms provided by the City Clerk. The permit shall specify the exact dates that such activity shall be allowed in public places.
  - b. Any organization which has been issued a Temporary Fermented Malt Beverage and/or Temporary Wine License for a designated area and event pursuant to this Code of Ordinances, provided that the provisions of this Chapter and Title 7, Chapter 2, are fully complied with.

- c. The provisions of this Section regarding open consumption of fermented malt beverages or intoxicating liquor shall not apply within two hundred (200) feet of a parade route which the City of Hillsboro has authorized from one (1) hour prior to the scheduled start of said parade until one (1) hour after the end of said parade; except that the foregoing exemption does not extend to any vehicle or unit of the parade, however propelled, nor to any parade participant for that period of time during which the vehicle, unit of the parade or person is participating within the assembly and disembarkment points of the parade.
- (b) **Definitions.**
- (1) As used in this Section, the term "alcoholic beverage" shall include all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated or degerminated grains or sugar, which contain one-half (1/2) of one percent (1%) or more of alcohol by volume and which are fit for use for beverage purposes.
  - (2) As used in this Section, the term "public area" shall be construed to mean any location within the City which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.
  - (3) As used in this Chapter "underage person" shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

*Cross-Reference:* Section 7.2.16.

## **Section 11.4.2      Sale to Underage or Intoxicated Persons Restricted.**

- (a) **Sales of Alcohol Beverages to Underage Persons.**
- (1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
  - (2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
  - (3) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.

- (4) No adult may intentionally encourage or contribute to a violation of Subsection (a)(1) or (b).
- (b) **Penalties.** For purposes of determining previous violations, the thirty (30) month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one (1) violation occurs at the same time, all those violations shall be counted as one (1) violation. A person who commits a violation of Subsection (a) above may be:
- (1) Required to forfeit not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within thirty (30) months of the violation; or
  - (2) Fined not more than Five Hundred Dollars (\$500.00) if the person has committed a previous violation within thirty (30) months of the violation.
  - (3) Fined not more than One Thousand Dollars (\$1,000.00) if the person has committed two (2) previous violations within thirty (30) months of the violation.
  - (4) Fined not more than Ten Thousand Dollars (\$10,000.00) if the person has committed three (3) or more previous violations within thirty (30) months of the violation.
  - (5) In addition to the forfeitures provided in Subsections (b)(1)-(4) above, a court shall suspend any license issued under this Chapter to a person violating this Subsection for:
    - a. Not more than three (3) days, if the court finds that the person committed a violation within twelve (12) months after committing one (1) previous violation;
    - b. Not less than three (3) days nor more than ten (10) days, if the court finds that the person committed a violation within twelve (12) months after committing two (2) other violations; or
    - c. Not less than fifteen (15) days nor more than thirty (30) days, if the court finds that the person committed the violation within twelve (12) months after committing three (3) other violations.
- (c) **Exception.** A person who holds a Class "A" license, a Class "B" license or permit, a "Class A" license or a "Class B" license or permit who commits a violation is subject to Subsection (b)(5) but is not subject to Subsection (b)(1)-(4) or Sec. 125.11, Wis. Stats.
- (d) **Sale of Alcohol Beverages to Intoxicated Persons.**
- (1) **Restrictions.**
    - a. No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
    - b. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.
- (e) **Penalties.** Any person who violates Subsection (d)(1) above shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).

**State Law Reference:** Sec. 125.07, Wis. Stats.

### **Section 11.4.3 Underage Persons' Presence in Places of Sale; Penalty.**

- (a) **Restrictions.** An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This Subsection does not apply to:
- (1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
  - (2) An underage person who enters or is on a "Class A" or Class "A" premises for the purpose of purchasing other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.
  - (3) Hotels, drug stores, grocery stores, bowling alleys, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums or public facilities as defined in Sec. 125.51(5)(b)l.d., Wis. Stats., which are owned by a county or municipality, or centers for the visual or performing arts.
  - (4) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chapters 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
  - (5) Ski chalets, golf courses and golf clubhouses, racetracks licensed under Chapter 562, Wis. Stats., curling clubs, private soccer clubs and private tennis clubs.
  - (6) Premises operated under both a "Class B" or Class "B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a "Class B" or Class "B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.
  - (7) Premises operating under both a "Class C" license and a restaurant permit.
  - (8) An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this Subsection. (An underage person may enter and remain on Class "B" or "Class B" premises under this Subsection only if the City adopts an ordinance permitting underage persons to enter and remain on the premises as



provided in this Subsection and the City Police Department issues to the Class "B" or "Class B" licensee a written authorization permitting underage persons to be present under this Subsection on the date specified in the authorization. Before issuing the authorization, the City Police Department shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the City. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.)

- (9) A person who is at least eighteen (18) years of age and who is working under a contract with the licensee, permittee or corporate agent to provide entertainment for customers on the premises.
  - (10) An underage person who enters or remains on Class "B" or "Class B" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or limited liability company or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the Police Department, in advance, of the times underage persons will be allowed on the premises under this Subsection.
  - (11) An underage person who enters or remains in a dance hall attached to Class "B" or "Class B" licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.
  - (12) An underage person who enters and remains on premises for which a temporary Class "B" license is issued under Sec. 125.26, Wis. Stats., if the licensee is authorized by the official or body of the City that issued the license to permit underage persons to be on the premises under Sec. 125.26(6), Wis. Stats., and if the licensee permits underage persons to be on the premises.
- (b) **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) above is subject to a forfeiture of not more than Five Hundred Dollars (\$500.00).

#### **Section 11.4.4 Underage Persons; Prohibitions; Penalties.**

- (a) **Prohibitions.** Any underage person who does any of the following is guilty of a violation:
- (1) Procures or attempts to procure alcohol beverages from a licensee or permittee.
  - (2) Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age, possesses or consumes alcohol beverages on licensed premises.

- (3) Enters, knowingly attempts to enter or is on licensed premises in violation of Section 11.4.3(a).
- (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (b) **Adult to Accompany.** Except as provided in Subsection (c) below, any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverage is guilty of a violation.
- (c) **Exceptions.** An underage person may possess alcohol beverages in the course of employment during his or her working hours if employed by any of the following:
  - (1) A brewer.
  - (2) A fermented malt beverages wholesaler.
  - (3) A permittee other than a Class "B" or "Class B" permittee.
  - (4) A facility for the production of alcohol fuel.
  - (5) A retail licensee or permittee under the conditions specified in Sec. 125.32(2) or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.
  - (6) A campus, if the underage person is at least eighteen (18) years of age and is under the immediate supervision of a person who has attained the legal drinking age.
- (d) **Penalties for Subsection (a) Violations.** Any person violating Subsection (a) is subject to the following penalties:
  - (1) For a first (1st) violation, a forfeiture of not more than Two Hundred Fifty Dollars (\$250.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g) or any combination of these penalties.
  - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not less than Three Hundred Dollars (\$300.00) not more than Five Hundred Dollars (\$500.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)(1), Wis. Stats., participation in a supervised work program or other community service work under Subsection (g) or any combination of these penalties.
  - (3) For a violation committed within twelve (12) months of two (2) previous violations, either a forfeiture of not less than Five Hundred Dollars (\$500.00) nor more than Seven Hundred Fifty Dollars (\$750.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g) or any combination of these penalties.
  - (4) For a violation committed within twelve (12) months of three (3) or more previous violations, either a forfeiture of not less than Seven Hundred Dollars (\$700.00) nor more than One Thousand Dollars (\$1,000.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or other community service work or any combination of these penalties.

- (e) **Penalties for Subsection (b) Violations.** Any person violating Subsection (b) above is subject to the following penalties:
- (1) For a first (1st) violation, a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), or any combination of these penalties.
  - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not less than Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars (\$300.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), or any combination of these penalties.
  - (3) For a violation committed within twelve (12) months of two (2) previous violations, either a forfeiture of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), or any combination of these penalties. (4)
  - (4) For a violation committed within twelve (12) months of three (3) or more previous violations, either a forfeiture of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), or any combination of these penalties.
- (f) **Multiple Violations From an Incident.** For purposes of Subsections (a) or (b) above, all violations arising out of the same incident or occurrence shall be counted as a single violation.
- (g) **Work Programs.**
- (1) A supervised work program ordered under Subsections (d) or (e) above shall be administered by the county department under Sec. 46.215 or 46.22, Wis. Stats., or by a community agency approved by the court. The court shall set standards for the supervised work program within the budgetary limits established by the County board of supervisors. The supervised work program may provide the person with reasonable compensation reflecting the market value of the work performed or it may consist of uncompensated community service work. Community service work ordered under Subsection (d) or (e), other than community service work performed under a supervised work program, shall be administered by a public agency or nonprofit charitable organization approved by the court. The court may use any available resources, including any community service work program, in ordering the child to perform community service work under Subsection (d) or (e).
  - (2) The supervised work program or other community service work shall be of a constructive nature designed to promote the person's rehabilitation, shall be

appropriate to the person's age level and physical ability and shall be combined with counseling from a member of the staff of the county department, community agency, public agency or nonprofit charitable organization or other qualified person. The supervised work program or other community service work may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.

- (h) **Disclosure of License Revocation Information.** When a court revokes or suspends a person's operating privilege under Subsections (d) or (e), the Wisconsin Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this Subsection may not disclose the information to any other person or agency.
- (i) **Applicability of Statutory Proceedings.** A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 938.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Sec. 938.344(3), Wis. Stats.
- (j) **Alcohol Abuse Programs.**
  - (1) In this Subsection, "defendant" means a person found guilty of violating Subsections (a) or (b) who is eighteen (18), nineteen (19), or twenty (20) years of age.
  - (2) After ordering a penalty under Subsections (d) or (e), the court, with the agreement of the defendant, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this Subsection shall require the defendant to do any of the following:
    - a. Submit to an alcohol abuse assessment that conforms to the criteria specified under Sec. 938.547(4), Wis. Stats., and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol abuse assessment and shall specify the date by which the assessment must be completed.
    - b. Participate in an outpatient alcohol abuse treatment program at an approved treatment facility, if an alcohol abuse assessment conducted under Subsection (j)(2)a recommends treatment.
    - c. Participate in a court-approved alcohol abuse education program.
  - (3) If the approved treatment facility, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant has submitted to an assessment under Subsection (j)(2)a and that the defendant does not need treatment or education, the court shall notify the defendant of whether or not the penalty will be reinstated.
  - (4) If the defendant completes the alcohol abuse treatment program or court-approved alcohol abuse education program, the approved treatment facility or court-approved alcohol abuse education program shall, with the written informed consent of the defendant, notify the agency primarily responsible for providing services to the

defendant that the defendant has complied with the order and the court shall notify the defendant of whether or not the penalty will be reinstated. If the court had ordered the suspension of the defendant's operating privilege under Subsection (d) or (e), the court may order the secretary of transportation to reinstate the operating privilege of the defendant if he or she completes the alcohol abuse treatment program or court-approved alcohol abuse education program.

- (5) If an approved treatment facility or court-approved alcohol abuse education program, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant is not participating in the program or that the defendant has not satisfactorily completed a recommended alcohol abuse treatment program or an education program, the court shall hold a hearing to determine whether the penalties under Subsection (d) or (e) should be imposed.

## **Section 11.4.5      Defense of Sellers.**

- (a) **Defenses.** In determining whether or not a licensee or permittee has violated Sections 11.4.2(a) or 11.4.3(a), all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcohol beverages maybe considered, including any circumstances listed below. In addition, proof of all of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this Section:
  - (1) That the purchaser falsely represented that he or she had attained the legal drinking age.
  - (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age.
  - (3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.
  - (4) That the underage person supported the representation under Subsection (a)(1) above with documentation that he/she had attained the legal drinking age.
- (b) **Book Kept by Licensees and Permittees.**
  - (1) Every retail alcohol beverage licensee or permittee may keep a book for the purposes of Subsection (a) above. The licensee or permittee or his or her employee may require any of the following persons to sign the book:
    - a. A person who has shown documentary proof that he or she has attained the legal drinking age if the person's age is in question.
    - b. A person who alleges that he or she is the underage person's parent, guardian or spouse and that he or she has attained the legal drinking age, if the licensee or permittee or his or her employee suspects that he or she is not the underage person's parent, guardian or spouse or that he or she has not attained the legal drinking age.

- (2) The book may show the date of the purchase of the alcohol beverage, the identification used in making the purchase or the identification used to establish that a person is an underage person's parent, guardian or spouse and has attained the legal drinking age, the address of the purchase and the purchaser's signature.

*State Law Reference:* Secs. 125.07(6) and (7), Wis. Stats.

## **Section 11.4.6      Persons Who Have Attained the Legal Drinking Age; False or Altered Identification Cards.**

- (a) Any person who has attained the legal drinking age, other than one authorized by Sec. 343.50, Wis. Stats., who makes, alters or duplicates an official identification card may be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).
  - (1) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).
- (b) Any underage person who does any of the following is subject to the penalties specified under Section 11.4.4(d) or (e):
  - (1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this Subsection.
  - (2) Makes, alters or duplicates an official identification card.
  - (3) Presents false information to an issuing officer in applying for an official identification card.

*State Law Reference:* Sec. 125.09(3), Wis. Stats.

## **Section 11.4.7      Possession of Alcohol Beverages on School Grounds Prohibited.**

- (a) In this Subsection:
  - (1) **Motor vehicle** means a motor vehicle owned, rented or consigned to a school.
  - (2) **School** means a public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

- (3) **School administrator** means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
- (4) **School premises** means premises owned, rented or under the control of a school.
- (b) Except as provided by Subsection (c) no person may possess or consume alcohol beverages:
  - (1) On school premises;
  - (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle;
  - (3) While participating in a school-sponsored activity.
- (c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.
- (d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00), except that Sec. 938.344, Wis. Stats., and Section 11.4.4(d) and (e) of this Code of Ordinances provide the penalties applicable to underage persons.

*Cross-Reference:* Section 11.6.5.

## **Section 11.4.8      Adult Permitting or Encouraging Underage Violation.**

- (a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- (b) No adult may intentionally encourage or contribute to a violation of Section 11.4.4(a) or (b).
- (c) A person who violates this Section is subject to a forfeiture of not more than Five Hundred Dollars (\$500.00).

*State Law Reference:* Sec. 125.07(1)(a)3 and 4, Wis. Stats.

## **Section 11.4.9      Solicitation of Drinks Prohibited.**

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the City who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Sec. 125.02(1), Wis. Stats., or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer is deemed in violation of this Section.

## Title 11 - Chapter 5

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# Offenses by Juveniles

### Section 11.5.1 Curfew.

- (a) **Curfew Established.** It shall be unlawful for any juvenile under age sixteen (16) to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the City of Hillsboro between the hours of 10:00 p.m. to 5:00 a.m., unless accompanied by his or her parent, legal guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefor. The fact that said juvenile, unaccompanied by parent, legal guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said juvenile is there unlawfully and that no reasonable excuse exists therefor.
- (b) **Exceptions.**
- (1) This Section shall not apply to a juvenile:
    - a. Who is performing an errand as directed by his/her parent, legal guardian or person having lawful custody.
    - b. Who is on his/her own premises or in the areas immediately adjacent thereto.
    - c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
    - d. Who is returning home from a supervised school, church or civic function, but not later than sixty (60) minutes after the ending of such function.
  - (2) These exceptions shall not, however, permit a juvenile to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
  - (3) **Parental Responsibility.** It shall be unlawful for any parent, legal guardian or other person having the lawful care, custody and control of any person under age sixteen (16) to allow or permit such person to violate the provisions of 11.5.1(a) or 11.5.1(b) above. The fact that prior to the present offense a parent, legal guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, legal guardian or custodian herein who shall have made a missing person notification to the police department shall not be considered



to have allowed or permitted any juvenile under age sixteen (16) to violate this Section.

- (c) **Detaining a Juvenile.** Pursuant to Chapter 938, Wis. Stats., law enforcement officers are hereby authorized to detain any juvenile violating the above provisions and other provisions in this Chapter until such time as the parent, legal guardian or person having legal custody of the juvenile shall be immediately notified and the person so notified shall as soon as reasonably possible thereafter report to the Police Department for the purpose of taking the custody of the juvenile and shall sign a release for him or her, or such juvenile may be taken directly from the scene of his/her apprehension to his/her home. If such juvenile's parents or relative living nearby cannot be contacted to take custody of such juvenile and it is determined by the apprehending officer that the juvenile's physical or mental condition is such as would require immediate attention, the police officer may make such necessary arrangements as may be necessary under the circumstances for the juvenile's welfare.
- (d) **Warning and Penalty.**
- (1) **Warning.** The first time a parent, guardian, or person having legal custody of a juvenile who is taken into custody by a law enforcement officer as provided in Subsection (d) above, such parent, legal guardian, or person having such legal custody shall be advised as to the provisions of this Section and further advised that any violation of this Section occurring thereafter by this juvenile or any other juvenile under his or her care or custody shall result in a penalty being imposed as hereinafter provided.
- (2) **Penalty.** Any parent, legal guardian, or person having legal custody of a juvenile described in Subsection (a) above who has been warned in the manner provided in Subsection (d)(1) herein and who thereafter violates this Section shall be subject to a penalty as provided in Section 1.1.7 of this Code of Ordinances. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this Section because of the disobedience of the juvenile, the action shall be dismissed and the juvenile shall be referred to the court assigned to exercise jurisdiction under Chapter 938, Wis. Stats. Any juvenile under sixteen (16) years of age who shall violate this Section shall be subject to a penalty as provided in Section 1.1.7 of this Code of Ordinances.

## **Section 11.5.2      Possession of Controlled Substances by Juveniles.**

It shall be unlawful for any juvenile to possess a controlled substance contrary to the Uniform Controlled Substances Act, Ch. 961, Wis. Stats.

### **Section 11.5.3      Petty Theft by Juveniles.**

It shall be unlawful for any juvenile with intent, to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

### **Section 11.5.4      Receiving Stolen Goods.**

It shall be unlawful for a person under the age of seventeen (17) to intentionally receive or conceal property he/she knows to be stolen.

### **Section 11.5.5      City Jurisdiction Over Juveniles.**

- (a) **Adoption of State Statutes.** Secs. 938.02, and 938.17(2), Wis. Stats., are hereby adopted and by reference made a part of this Section as if fully set forth herein.
- (b) **Definition of Adult and Juvenile.**
  - (1) **Adult** means a person who is eighteen (18) years of age or older, except that for purposes of prosecuting a person who is alleged to have violated any civil law or municipal ordinance, "adult" means a person who has attained seventeen (17) years of age.
  - (2) **Juvenile** means a person who is less than eighteen (18) years of age, except that for purposes of prosecuting a person who is alleged to have violated a civil law or municipal ordinance, "juvenile" does not include a person who has attained seventeen (17) years of age.
- (c) **Provisions of Ordinance Applicable to Juveniles.** Subject to the provisions and limitations of Sec. 938.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against juveniles may be brought on behalf of the City of Hillsboro and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- (d) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- (e) **Additional Prohibited Acts.** In addition to any other provision of the City of Hillsboro Code of Ordinances, no juvenile shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Ch. 125, Wis. Stats.
- (f) **Penalty for Violations of Subsection (d).** Any juveniles who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1.1.7 of this Code of Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

*Cross-Reference:* Section 11.4.7.

## **Section 11.5.6 Possession, Manufacture and Delivery of Drug Paraphernalia by a Minor Prohibited.**

- (a) **Definition.** In this Section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance, as defined in Ch. 961, Wis. Stats., in violation of this Section. It includes but is not limited to:
- (1) Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
  - (2) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, or preparing controlled substances.
  - (3) Isomerization devices used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
  - (4) Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
  - (5) Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
  - (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
  - (7) Separation gins and sifters used, intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
  - (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding controlled substances.
  - (9) Capsules, balloons, envelopes, or other containers used, intended for use, or designed for use, in packaging small quantities of controlled substances.
  - (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
  - (11) Hypodermic syringes, needles, or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
  - (12) Objects used, intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, into the human body, including but not limited to:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
  - b. Water pipes;
  - c. Carburetion tubes and devices;
  - d. Smoking and carburetion masks;
  - e. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
  - f. Miniature cocaine spoons and cocaine vials;
  - g. Chamber pipes;
  - h. Carburetor pipes;
  - i. Electric pipes;
  - j. Air-driven pipes;
  - k. Chillums;
  - l. Bongs;
  - m. Ice pipes or chillers.
- (b) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of such other considerations a court may deem relevant:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
  - (2) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
  - (3) The proximity of the object in time and space to a direct violation of this Section.
  - (4) The proximity of the object to controlled substances.
  - (5) The existence of any residue of controlled substance on the object.
  - (6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
  - (7) Oral or written instructions provided with the object concerning its use.
  - (8) Descriptive materials accompanying the object which explain or depict its use.
  - (9) National and local advertising concerning its use.
  - (10) The manner in which the object is displayed for sale.
  - (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
  - (12) The existence and scope of legitimate uses for the object in the community;
  - (13) Expert testimony concerning its use.
- (c) **Prohibited Uses.**
- (1) **Possession of Drug Paraphernalia.** No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce

into the human body a controlled substance or controlled substance analog in violation of this Subsection.

- (2) ***Manufacture or Delivery of Drug Paraphernalia.*** No person may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this Subsection.
  - (3) ***Delivery of Drug Paraphernalia by a Minor to Minor.*** Any person who is under eighteen (18) years of age, who violates Subsection (c)(2) by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years younger than the violator, is guilty of a special offense.
  - (4) ***Exemption.*** This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 961, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 961, Wis. Stats.
- (d) **Penalties.** Any person who violates Subsection (c)(1), (2) or (3), shall upon conviction, be subject to disposition under Sec. 938.344(2e), Wis. Stats.

## Section 11.5.7      Truancy.

- (a) **Definitions.** For the purpose of this Section, the following definitions shall be applicable:
- (1) ***Acceptable Excuse.*** The meaning as defined in Secs. 118.15 and 118.16(4), Wis. Stats.
  - (2) ***Act of Commission or Omission.*** Anything that contributes to the truancy of a juvenile, whether or not the juvenile is adjudged to be in need of protection or services, if the natural and probable consequences of that act would be to cause the child to be truant.
  - (3) ***Habitual Truant.*** A pupil who is absent from school without an acceptable excuse for either of the following:
    - a. Part or all of five (5) or more days out of ten (10) consecutive days in which school is held during a school semester.
    - b. Part or all of ten (10) or more days in which school is held during a school semester.
  - (4) ***Truancy.*** Any absence of part or all of one (1) or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or legal guardian of the absent pupil. Intermittent attendance carried on for the purpose of defeating the intent of Sec. 118.15, Wis. Stats., shall also be considering truancy.
- (b) **Prohibition Against Habitual Truant.** Any person attending school in the City between the ages of six (6) and eighteen (18) years, subject to the exceptions found

under Sec. 118.15, Wis. Stats., is prohibited from becoming a habitual truant as the term is defined in this Section. Any police officer in this City is authorized to issue a citation to any such person who is determined to be a habitual truant under the terms of this Section.

- (c) **Preconditions to Issuance of Citation.** Prior to the issuance of any citation, the district school Attendance Officer shall provide evidence to the Police Department that appropriate school personnel in the school in which the juvenile is enrolled has within the school year during which the truancy occurred:
- (1) Met with or attempted to meet with the juvenile's parent or legal guardian to discuss the juvenile's truancy.
  - (2) Provided an opportunity for educational counseling to the juvenile and considered curriculum modifications.
  - (3) Evaluated the juvenile to determine whether learning problems are the cause of the truancy and, if so, taken steps to overcome the learning problems.
  - (4) Conducted an evaluation to determine whether social problems are the cause of the juvenile's truancy and, if so, taken appropriate action or made appropriate referrals.
- (d) **Form of Citation.** Any citation issued shall be returnable in Court in the same manner as all other ordinance citations are returnable. The citation is to state on its face that this is a "must appear" citation.
- (e) **Disposition.** Upon a finding the juvenile is habitually truant, the following dispositions are available to the Court:
- (1) ***Suspension of Operating Privileges.*** Suspend the juvenile's operating privileges as defined in Sec. 340.01(40), Wis. Stats., for not less than thirty (30) days nor more than ninety (90) days. The judge shall immediately take possession of the suspended license and forward it to the Department of Transportation of the State of Wisconsin, together with a notice setting forth the reason for and duration of the suspension.
  - (2) ***Counseling, Service or Work Program.*** Order the juvenile to participate in counseling and/or supervision under Sec. 48.345, Wis. Stats.
  - (3) ***In-House Restraint.*** Order the juvenile to remain at home except for the hours in which the juvenile is attending religious worship or a school program including travel time required to get to and from the school program or place of worship. The order may permit a juvenile to leave home if the juvenile is accompanied by a parent or legal guardian.
  - (4) ***Educational Programs.*** Order the juvenile to attend an educational program as set forth in Sec. 48.345(12), Wis. Stats:
  - (5) ***Revocation of Work Permits.*** Order the Department of Commerce to revoke a work permit to the juvenile.
  - (6) ***Teen Court Program.*** Order the juvenile to be placed in a teen court program if all of the following conditions apply:
    - a. The chief judge of the judicial administrative district has approved a teen court program established in juvenile's county of residence and the judge

- determines that participation in the court program will likely benefit the juvenile and the community;
- b. The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, legal guardian or legal custodian present;
  - c. The juvenile has not successfully completed participation in a teen court program during the two (2) years before the date of the alleged violation.
- (7) **Parental Counseling.** Order the parent, legal guardian or legal custodian of a habitually truant juvenile to participate in counseling at his or her own expense.
- (f) **Required School Attendance.**
- (1) **Violations.** Any person having under his/her control a juvenile who is between the ages of six (6) and eighteen (18), subject to the exceptions found in Sec. 118.15, Wis. Stats., shall cause the juvenile to attend school regularly during the full period and hours that the public or private school in which the juvenile shall be enrolled is in session until the end of the school term, quarter, or semester of the school year in which the juvenile becomes eighteen (18) years of age.
  - (2) **Exceptions.**
    - a. A person will not be found in violation of this Subsection if that person can prove that he/she is unable to comply with the provisions of this Section because of the disobedience of the juvenile. The juvenile shall be referred to the Court assigned to exercise jurisdiction under Chapter 938, Wis. Stats.
    - b. A person will not be found in violation of this Subsection if he/she has a juvenile under his/her control and the child has been sanctioned under Sec. 49.26, Wis. Stats.
  - (3) **Proof Required for Exacting a Penalty.** Before a person may be found guilty of violating this Section, the school attendance officer must present evidence to the Court that the activities under Sec. 118.16(5), Wis. Stats., have been completed by the school system. If that evidence has been presented to the Court and if the Court finds a person guilty of violating this Section, a forfeiture may be assessed as hereinafter provided.
- (g) **Contributing to Truancy.**
- (1) Except as provided in Subsection (g)(2) below, any person eighteen (18) years of age or older, who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in Subsection (g)(4), of a juvenile shall be subject to a forfeiture pursuant to Section 1.1.7.
  - (2) Subsection (1) above does not apply to a person who has under his or her control a juvenile who has been sanctioned under Sec. 49.26(1)(h), Wis. Stats.
  - (3) An act or omission contributes to the truancy of a child, whether or not the juvenile is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the juvenile to be a truant.
  - (4) "Truancy" means any absence of part or all of one (1) or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or legal guardian of the

absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of Sec. 118.15, Wis. Stats.

- (h) **Parent or Legal Guardian Liability for Truancy.**
- (1) Unless the juvenile is excepted or excused under Sec. 118.15, Wis. Stats., or has graduated from high school, any person having under control a juvenile who is between the ages of six (6) and eighteen (18) years shall cause the juvenile to attend school regularly during the full period of hours, religious holidays excepted, that the public or private school in which the juvenile should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the juvenile becomes eighteen (18) years of age.
  - (2) A person found to have violated Subsection (h)(1) above, after evidence is provided by a school official that the activities under Sec. 118.16(5), Wis. Stats., have been completed, shall be subject to a forfeiture pursuant to Section 1.1.7.
    - a. Subsection (h)(2) above does not apply to a person who has under his or her control a juvenile who has been sanctioned under Sec. 49.26(1)(h), Wis. Stats., nor does it apply if the person proves that he or she is unable to comply with Subsection (h)(1) because of the disobedience of the juvenile.

## **Section 11.5.8 Unlawful Sheltering of Minors.**

- (a) No person shall intentionally shelter or conceal a minor child who:
  - (1) Is a "runaway child", meaning a child who has run away from his or her parent, legal guardian or legal or physical custodian; or
  - (2) Is a child who may be taken into custody pursuant to Sec. 938.19, Wis. Stats.
- (b) Subsection (a) applies when the following conditions are present:
  - (1) The person knows or should have known that the child is a child described in either Subsection (a)(1) or (a)(2); and
  - (2) The child has been reported to a law enforcement agency as a missing person or as a child described in Subsection (a)(1) or (a)(2).
- (c) Subsection (a) does not apply to any of the following:
  - (1) A person operating a runaway home in compliance with Sec. 938.22(7), Wis. Stats.; or
  - (2) A person who shelters or conceals a child at the request or with the consent of the child's parent, legal guardian or legal or physical custodian; or
  - (3) A person who immediately notifies a law enforcement agency, county department of public welfare or social services, or the intake worker of the court exercising jurisdiction under Ch. 48 or 938, Wis. Stats., that he or she is sheltering or concealing such child and provides the person or agency notified with all information requested.



## Section 11.5.9 Purchase or Possession of Tobacco Products.

- (a) **Definition of Tobacco Products.** For the purposes of this Section, "tobacco products" means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.
- (b) **Prohibition Against Sale of or Availability of Cigarettes and Tobacco Products.**
- (1) **Prohibition.** It shall be a violation of this Section for any retailer to sell or give cigarettes or tobacco products to any person under the age of eighteen (18) except as provided in Sec. 254.92(2), Wis. Stats. A vending machine operator is not liable for the purchase of cigarettes or tobacco products from his/her vending machine by a person under eighteen (18) years of age if the vending machine operator was unaware of the purchase.
  - (2) **Vending Machine Requirements.** The maintenance or keeping by retailers of vending machines dispensing cigarettes or tobacco products within the City of Hillsboro limits shall be in strict conformity with the requirements of Sec.134.66, Wis. Stats., the provisions of which are incorporated herein by reference.
  - (3) **Vending Machine Placement.** No retailer shall place a vending machine dispensing cigarettes or tobacco products within five hundred (500) feet of any school. The operator of any such vending machine which is located within five hundred (500) feet of a school as of the effective date of this Section and which is so placed pursuant to a written agreement binding upon the vending machine operator may leave it there subject to the requirement, however, that he/she shall cause said vending machine(s) to be removed no later than May 1, 1993, or the date of expiration of the written agreement related thereto, whichever occurs first.
  - (4) **Restrictions on Manufacturers.** No manufacturer, distributor, jobber, sub jobber, or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person under the age of eighteen (18).
  - (5) **Notice Requirements.** Retailers and vending machine operators shall comply with the posting and notice requirements set forth at Sec. 134.66, Wis. Stats.
  - (6) **Conformity With State Law.** It is the intention of the City that this Subsection shall conform strictly with Sec. 134.66, Wis. Stats. Should any provision herein set forth fail to meet with this qualification upon court review, the offending provision shall be considered to be severed from the remainder of this Section, which shall remain in full force and effect as if the offending provision were never adopted.
- (c) **Prohibition Against Use and Purchase of Cigarettes and Tobacco Products to Persons Under the Age of Eighteen (18) Years.**
- (1) **Definitions.** The definitions set forth at Sec. 254.911, Wis. Stats., are incorporated herein by reference.
  - (2) **Purchase Prohibitions.** No person under the age of eighteen (18) years may do any of the following:

- a. Buy or attempt to buy any cigarette or tobacco product, except in accord with Sec. 254.92(2), Wis. Stats.
  - b. Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
- (3) **Seizure of Tobacco Product.** A law enforcement officer in whose presence a violation of Subsection (c)(2) occurs shall seize any cigarette or tobacco product involved therein.
- (4) **Conformity With State Law.** It is the intention of the City that this Subsection shall conform strictly with Secs. 254.92 and 134.66, Wis. Stats. Should any provision herein set forth fail to meet with this qualification upon court review, the offending provision shall be considered to be severed from the remainder of this Section, which shall remain in full force and effect as if the offending provision were never adopted.

**State Law Reference:** Secs. 134.66 and 254.92, Wis. Stats.

## **Section 11.5.10 Smoking by Minors on Public Properly.**

No person under the age of eighteen (18) years shall carry or possess a lighted cigar, cigarette, pipe, or any other lighted smoking equipment or tobacco product restricted by state law on public property within five hundred (500) feet of a school grounds within the City of Hillsboro between the hours of 7:00 a.m. and 5:00 p.m.

## **Section 11.5.11 Criminal Gang Activity Prohibited.**

- (a) **Authority.** This Section is adopted pursuant to the authority granted by Sec. 66.0107 and Chapter 948, Wis. Stats.
- (b) **Definitions.** For purposes of this Section, the following terms are defined:
  - (1) **Criminal Gang** means an ongoing organization, association or group of three (3) or more persons, whether formal or informal, that has as one of its primary activities, the commission of one (1) or more criminal or unlawful acts, or acts that would be criminal or unlawful if the actor were an adult, specified in Sec. 939.22(21), Wis. Stats., or in any of the Municipal Code sections referred to in Subsection (b)(2) below; that has a common name or common identifying sign or symbol and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.
  - (2) **Pattern of Criminal Gang Activity** has the same meaning as the definition in Sec. 939.22(21), Wis. Stats.

- (3) **Unlawful Act** includes a violation of any of the Municipal Code sections referred to in Subsection (b)(2) above or any criminal act or act that would be criminal if the actor were an adult.
- (c) **Unlawful Activity.**
  - (1) It is unlawful for any person to engage in criminal gang activity.
  - (2) It is unlawful for any person to solicit or attempt to solicit a person who has not attained the age of eighteen (18) years, to commit or attempt to commit any violation of the provisions of this Section, or any one (1) or more of those sections of the Municipal Code referred to in Subsection (b)(2) above.
  - (3) It is unlawful for any person to solicit or attempt to solicit a person who has not attained the age of eighteen (18) years, to participate in criminal gang activity.
  - (4) It is unlawful for any person to solicit or attempt to solicit a person who has not attained the age of eighteen (18) years, to join a criminal gang.

## **Section 11.5.12 Enforcement and Penalties.**

- (a) **Citation Process.** For violations of Sections 11.5.2 through 11.5.11, juveniles may be cited by the citation process on a form approved by the City Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.
- (b) **Penalties.** Violations of Sections 11.5.2 through 11.5.11 by a person under the age of eighteen (18) shall be punishable according to Section 1.1.7 of this Code of Ordinances and Secs. 938.17(2), 938.343, 938.344 and 938.345, Wis. Stats. Nothing in this Section shall prevent the juvenile officer, in his/her discretion, from referring cases directly to the District Attorney's office.

## Title 11 - Chapter 6

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### Public Nuisances

#### Section 11.6.1 Public Nuisances Prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City of Hillsboro.

#### Section 11.6.2 Public Nuisance Defined.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;

- (b) In any way render the public insecure in life or in the use of property;
- (c) Greatly offend the public morals or decency;
- (d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

#### Section 11.6.3 Public Nuisances Affecting Health.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 11.6.2:

- (b) **Adulterated Food.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (c) **Unburied Carcasses.** Carcasses of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.
- (d) **Breeding Places for Vermin, Etc.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

- (e) **Stagnant Water.** All stagnant water in which mosquitoes, flies or other insects can multiply.
- (f) **Garbage Cans.** Garbage cans which are not fly-tight.
- (g) **Noxious Weeds.** All noxious weeds and other rank growth of vegetation.
- (h) **Water Pollution.** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (i) **Noxious Odors, Etc.** Any use of property, substances or things within the City or within four (4) miles thereof or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.
- (j) **Street Pollution.** Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the City.
- (k) **Animals at Large.** All animals running at large.
- (l) **Accumulations of Refuse.** Accumulations of old cans, lumber, elm firewood and other refuse.
- (m) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

## **Section 11.6.4      Public Nuisances Offending Morals and Decency.**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 11.6.2:

- (a) **Disorderly Houses.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (b) **Gambling Devices.** All gambling devices and slot machines, except as permitted by state law.
- (c) **Unlicensed Sale of Liquor and Beer.** All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for the ordinances of the City.
- (d) **Continuous Violation of City Ordinances.** Any place or premises within the City where City ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

- (e) **Illegal Drinking.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the City.

## **Section 11.6.5      Public Nuisances Affecting Peace and Safety.**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 11.6.2:

- (a) **Signs, Billboards, Etc.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (b) **Illegal Buildings.** All buildings erected, repaired or altered in violation of the provisions of the ordinances of the City relating to materials and manner of construction of buildings and structures within the City.
- (c) **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- (d) **Obstruction of Intersections.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (e) **Tree Limbs.** All limbs of trees which project over a public sidewalk less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.
- (f) **Dangerous Trees.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (g) **Fireworks.** All use or display of fireworks except as provided by the laws of the State of Wisconsin and Ordinances of the City.
- (h) **Dilapidated Buildings.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (i) **Wires Over Streets.** All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- (j) **Noisy Animals or Fowl.** The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the City.
- (k) **Obstructions of Streets; Excavations.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the

ordinances of the City or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.

- (l) **Open Excavations.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- (m) **Abandoned Refrigerators.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (n) **Flammable Liquids.** Repeated or continuous violations of the ordinances of the City or laws of the State relating to the storage of flammable liquids.
- (o) **Unremoved Snow.** All snow and ice not removed shall be sprinkled with sand or other chemical removers, as provided in this Code.

## **Section 11.6.6 Abatement of Public Nuisances.**

### **(a) Summary Abatement.**

(1) **Notice to Owner.** If the inspecting officer determines that a public nuisance exists within the City and that there is a danger of public health, safety, peace, morals or decency, notice may be served by the inspecting officer or an authorized deputy on the person causing, maintaining or permitting such nuisance or on the owner or occupant of the premises where such nuisance is caused, maintained or permitted; and a copy of such notice shall be posted on the premises. Such notice shall direct the person causing, maintaining or permitting such nuisance, or the owner or occupant of the premises, to abate or remove such nuisance within a period not less than twentyfour (24) hours or greater than seven (7) days and shall state that unless such nuisance is so abated, the City will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, maintaining or permitting the nuisance, as the case may be.

(2) **Abatement by City.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.

(b) **Abatement by Court Action.** If the inspecting officer determines that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, the inspector shall file a written report of such findings with the Mayor who, upon direction of the Common Council, shall cause an action to abate such nuisance to be commenced in the name of the City in Vernon County Circuit Court in accordance with the provisions of Chapter 823, Wis. Stats.

(c) **Court Order.** Except where necessary under Subsection (a), no officer hereunder shall use force to obtain access to private property to abate a public nuisance, but shall

request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

- (d) **Other Methods Not Excluded.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State of Wisconsin.

## **Section 11.6.7 Cost of Abatement.**

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, such cost shall be assessed against the real estate as a special charge.

## **Section 11.6.8 Enforcement; Penalty.**

- (a) **Enforcement.** The Chief of Police, Fire Inspector, Superintendent of Streets and Building Inspector shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under Section 11.6.6 to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does, in fact, exist.
- (b) **General Penalty.** Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 1.1.7.



## Title 11 - Chapter 7

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# Regulation of Lewd and Sexually Explicit Conduct

## Article A: Introduction

### Section 11.7.1 Statement of Findings and Intent.

- (a) **Intent.** It is the intent of this Chapter to regulate sexually oriented businesses and related activities to promote the health, safety and general welfare of the citizens of the City of Hillsboro and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to this intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene materials.
- (b) **Findings.**
- (1) It is a lawful purpose of the Common Council to enact rules and regulations as are necessary for the preservation of health and to prevent the spread of AIDS and other communicable or sexually transmitted diseases in the City of Hillsboro. It has been found by localities through the State of Wisconsin, particularly Milwaukee, Racine, Waukesha, Delafield, Kenosha and West Allis, as well as communities around the country, including Indianapolis, Indiana; Austin, Texas; Chattanooga, Tennessee; Newport News, Virginia; Marion County, Indiana; Detroit, Michigan; and Seattle, Washington; as well as other communities around the country, that sexually oriented adult entertainment establishments are predisposed to the creation of unsafe and unsanitary conditions; that operators and employees of such businesses tend to participate in sex-related offenses on the premises, creating

substantial law enforcement problems, and that the operational characteristics of such businesses have a deleterious effect on surrounding areas, resulting in neighborhood blight and reduced property values, especially when such businesses are concentrated in one (1) area. Many of such establishments install movie viewing booths with doors in which patrons view videotapes, movies, films and other forms of entertainment characterized by their emphasis on depicting, describing or relating to specified sexual activities or specified anatomical areas, and that such booths have been and are being used by patrons to engage in sexual acts resulting in unsanitary, unhealthy and unsafe conditions in said booths and establishments. This Chapter is intended to establish standards in order to prevent the spread of AIDS and other communicable or sexually transmitted diseases, and to eliminate the deleterious effects described above in the City of Hillsboro.

- (2) The Common Council recognizes that "Class B" licensed premises are the most likely location to conduct a live nude dancing business and that this sexually oriented adult entertainment activity could lead to the exploitation of human sexuality. Such exploitation takes the form of employing or permitting persons to perform or exhibit their nude or semi-nude bodies to other patrons as an inducement to the patrons to purchase alcohol beverages. The result of such exploitation is both direct and secondary criminal activity, moral degradation and disturbance of the peace and good order of the community. In addition, this commercial exploitation of such nude and semi-nude acts is adverse to the public's interest in the quality of life, commercial activity and total community environment of the City of Hillsboro.
- (3) The Common Council also recognizes that it lacks authority to regulate obscenity in light of Sec. 66.051(3), Wis. Stats., and does not intend by adopting this Chapter to regulate obscenity, since nudity in and of itself is not obscene; it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, nonobscene, erotic dancing in bars or taverns.
- (4) Based on evidence concerning the adverse secondary effects of adult uses on communities stated above, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes V. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, Ky.*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Key, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); and *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11 th Cir. 1984), and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the Common Council finds that:

- (5) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located.
- (6) Studies of the relationship between sexually oriented businesses and neighborhood property values have found a negative impact on both residential and commercial property values.
- (7) Sexually oriented businesses may contribute to an increased public health risk through the spread of sexually transmitted diseases.
- (c) **Exemptions.** The provisions of this Chapter do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic, social or political merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances. While expressive live nudity may occur within these establishments, this Chapter seeks only to minimize and prevent the secondary effects of adult oriented establishments or sexually oriented businesses on the community. Negative secondary effects have not been associated with these establishments.

## Section 11.7.2 Definitions.

The following definitions are applicable in this Chapter:

- (a) **Adult Arcade.** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
- (b) **Adult Bath House.** An establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in specified sexual activities as defined in this Article.
- (c) **Adult Body-Painting Studio.** An establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For purposes of this Chapter, an adult body painting studio shall not be deemed to include a tattoo parlor.
- (d) **Adult Bookstore or Adult Video Store.** An establishment having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as

defined herein. This includes an establishment having as its stock in trade, for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment for observation by patrons therein. This also includes a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities." **NOTE:** A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

- (e) **Adult Cabaret.** A nightclub, dance hall, bar, restaurant, or similar commercial establishment that regularly features:
  - (1) Persons who appear in a state of nudity or semi-nudity; or
  - (2) Live performances that are characterized by "specified sexual activities"; or
  - (3) Films, motion pictures, videocassettes, slides, or other photographic or computer reproductions or depictions that are characterized by the depiction or description of "specified sexual activities" or "nudity".
- (f) **Adult Entertainment.** Any exhibition of any motion pictures, live performance, display or dance of any type, which has a significant or substantial portion of such performance or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, as defined herein, appearing unclothed, or the removal of articles of clothing to reveal specified anatomical areas.
- (g) **Adult Mini-Motion Picture Theater.** An enclosed building with a capacity for less than fifty (50) patrons, including establishments that have coin operated video or motion picture booths, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.
- (h) **Adult Modeling Studio.** An establishment or business which provides the services of modeling for the purpose of reproducing the human body wholly or partially nude by means of photography, painting, sketching, drawing or otherwise.
- (i) **Adult Motel.** A hotel, motel, or similar commercial establishment which:
  - (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video

- cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and which may have a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
  - (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (j) **Adult Motion Picture Theater.** An enclosed building with a capacity of fifty (50) or more persons at which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.
  - (k) **Adult Motion Picture Theater (Outdoor).** A parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activity or specified anatomical areas, as defined herein, for observation by patrons.
    - (1) **Adult Novelty Shop.** An establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on, or designed for, specified sexual activities or specified anatomical areas, as defined herein, or stimulating such activity.
  - (l) **Adult Oriented or Sexually Oriented Establishment.** An establishment which includes, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion theaters, adult theaters, adult bath houses, adult body painting studios, adult motels, adult novelty shops or adult cabarets, sexual encounter centers, sexually-oriented businesses, escort agencies, establishments featuring live sexually explicit performances, and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult oriented establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.
  - (m) **Adult Theater.** A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or seminudity, and/or live performances that are characterized by the "exposure of specified anatomical areas" or by "specified sexual activities."

- (n) **Booth, Room or Cubicle.** Such enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, booth, room, or cubicle does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to any persons other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 50, Wis. Stats.
- (o) **Breast.** A portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and the areola (the darker colored area of the breast surrounding the nipple) and an outside area of such gland wherein such outside area is:
- (1) Reasonably compact and contiguous to the areola; and
  - (2) Contains at least the nipple and the areola and one-fourth (1/4) of the outside surface area of such gland.
- (p) **Buttocks.** (For a short general description see the last sentence of this Subsection). The area at the rear of the human body (sometimes referred to as the gluteus maximus) which lies between two (2) imaginary straight lines running parallel to the ground when a person is standing, the first or top such line being one-half (1/2) below the top of the vertical cleavage of the nates (i.e., the prominence formed by the muscles running from the back of the hip to the back of the leg) and the second or bottom such line being one-half (1/2) inch above the lowest point of the curvature of the fleshy protuberance (sometimes referred to as the gluteal fold), and between two (2) imaginary straight lines, one on each side of the body (the "outside line"), which outside lines are perpendicular to the ground and to the horizontal lines described above and which perpendicular outside lines pass through the outermost point(s) at which each nate meets the outer side of each leg. Notwithstanding the above, buttocks shall not include the leg, the hamstring muscle below the gluteal fold, the tensor fasciae latae muscle or any of the above-described portion of the human body that is between either:
- (1) The left inside perpendicular line and the left outside perpendicular line; or
  - (2) The right inside perpendicular line and the right outside perpendicular line.
- For the purpose of the previous sentence the left inside perpendicular line shall be an imaginary straight line on the left side of the anus:  
That is perpendicular to the ground and to the horizontal lines described above; and
- (3) That is one-third (1/3) of the distance from the anus to the left outside line; and
- The right inside perpendicular line shall be an imaginary straight line on the right side of the anus:  
That is perpendicular to the ground and to the horizontal lines described above; and
- (4) That is one-third (1/3) of the distance from the anus to the left outside line; and

The right inside perpendicular line shall be an imaginary straight line on the right side of the anus:

That is perpendicular to the ground and to the horizontal lines described above; and

(5) That is one-third (1/3) of the distance from the anus to the right outside line. (The above description can generally be described as covering one-third (1/3) of the buttocks centered over the cleavage for the length of the cleavage.)

- (q) **Church.** A building whether situated within the City or not, in which persons regularly assemble for religious worship intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.
- (r) **Customer.** Any person who:
  - (1) Is allowed to enter an adult oriented establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or
  - (2) Enters an adult oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
  - (3) Is a member of and on the premises of an adult oriented establishment operating as a private club.
- (s) **Community.** The State of Wisconsin.
- (t) **Day Care Center.** A facility licensed by the State of Wisconsin pursuant to Sec. 48.65, Wis. Stats., whether situated within the City or not.
- (u) **Door, Curtain or Portal Partition.** A nontransparent closure device which prevents activity taking place within a booth, room or cubicle from being seen or viewed from outside the booth, room or cubicle.
- (v) **Employee.** Any and all persons, including independent contractors, who work in or at or render any services directly or indirectly related to the operation of an adult oriented establishment.
- (w) **Entertainer.** Any person who provides entertainment within an adult oriented establishment as defined in this Chapter, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or independent contractor, including:
  - (1) Any person who appears in a state of nudity or semi-nudity in a sexually oriented business; or
  - (2) Any person who engages in live performances that are characterized by "specified sexual activities".
- (x) **Escort.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- (y) **Escort Agency.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- (z) **Establishment.** Includes any of the following:
  - (1) The opening or commencement of any sexually oriented business as a new business;

- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
  - (3) The additions of any sexually oriented business to any other existing sexually oriented business; or
  - (4) The relocation of any sexually oriented business; or
  - (5) A sexually oriented business or premises on which the sexually oriented business is located.
- (aa) **Harmful to Minors.** That quality of any description or representation, in whatever form, of nudity, specified sexual activities or specified anatomical areas, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.
- (bb) **Knowingly.** Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
- (1) The character and content of any material described herein which is reasonably suspect under this Section; and
  - (2) The age of a minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.
- (cc) **Knowledge of Minor's Age.** Means:
- (1) Knowledge or information that the person is a minor; and
  - (2) Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.
- (dd) **Manager.** The operator or agent licensed under this Chapter who shall not be licensed as a massage technician.
- (ee) **Massage.** Any process or procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another for consideration.
- (ff) **Massage Establishment.** A place of business wherein private massage is practiced, used or made available as a principal use of the premises.
- (gg) **Massage Room.** The area where private massage is performed.
- (hh) **Massage Technician.** A person who practices, administers or uses massage for a consideration, and who holds a valid license under this Chapter.
- (ii) **Minor.** Any person under the age of eighteen (18) years.
- (jj) **Nudity.** The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernible turgid state.



- (kk) **Operator.** Any person operating, conducting, maintaining or owning any sexually-oriented establishment, adult-oriented establishment or massage establishment.
- (ll) **Patron.** Any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefor.
- (mm) **Premises.** The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the owner or operator of the business.
- (nn) **Residential.** Pertaining to the use of land, whether situated within the City or not, for premises such as homes, townhouses, duplexes, condominiums, apartments and mobile homes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. A premises which is designed primarily for living, sleeping, working and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes and hospitals shall not be considered to be residential.
- (oo) **Sadomasochistic Abuse.** Flagellation or torture by a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- (pp) **School.** A building, whether situated within the City or not, where persons regularly assemble for the purpose of instruction or education, together with playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:
  - (1) Public and private schools used for primary or secondary education in which any regular kindergarten or grades one (1) through twelve (12) classes are taught; and
  - (2) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one (1) through twelve (12).
- (qq) **Semi-Nude or Semi-Nudity.** The exposure of a bare female breast with less than one-fourth (1/4) of the breast surface area, contiguous to and containing the areola, completely and opaquely covered (see definition of breast in this Section). Each female person may determine which one-fourth (1/4) of her breast surface area contiguous to and containing the areola is to be covered.
- (rr) **Sexual Conduct.** The commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus, lewd exhibition of human genitals, or passionate kissing and petting of a sexual nature.
- (ss) **Sexual Encounter Center.** A business or commercial enterprise that, as one if its principal business purposes, offers for any form of consideration:
  - (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

- (tt) **Sexual Intercourse.** Physical sexual contact between individuals that involves the genitalia of at least one (1) person including, but not limited to, heterosexual intercourse, sodomy, fellatio, or cunnilingus.
- (uu) **Specified Anatomical Areas.** Less than completely and opaquely covered:
  - (1) Human genitals, pubic region;
  - (2) Buttock; or
  - (3) Female breast below a point immediately above the top of the areola.
  - (4) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- (vv) **Specified Sexual Activities.** Simulated or actual:
  - (1) Showing of human genitals in a state of sexual stimulation or arousal;
  - (2) Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus;
  - (3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts, whether covered or uncovered.
  - (4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.
- (ww) **Substantial.** As used in various definitions, shall mean fifty percent (50%) or more of a business' stock in trade, display space, floor space or retail sales in any one (1) month during the license year.
- (xx) **Waiting Area.** An area adjacent to the main entrance that is separate from any area where massages are given.

### **Section 11.7.3      Public Indecency Prohibited.**

- (a) Any person who, within the City of Hillsboro municipal limits, knowingly or intentionally, in a public place, commits public indecency by doing one of the following:
  - (1) Engaging in specified sexual activities, including, but not limited to, public passionate kissing or petting of a sexual nature;
  - (2) Displaying specified anatomical areas; or
  - (3) Appearing in a state of nudity.
- (b) In addition to any other actions allowed by law or taken by the Common Council and/or Committee thereof, including the action of applicable license revocation or non-renewal, anyone who violates any of the provisions of this Section shall forfeit not less than Two Hundred Fifty Dollars (\$250.00), and not more than Two Thousand Dollars (\$2,000.00), for each offense, together with costs, and if such forfeiture and costs are not paid, such person so convicted shall be subject to such other penalties available by law.

## **Section 11.7.4 Exposing Minors to Harmful Materials.**

- (a) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, or specified sexual activities and which is harmful to minors.
- (b) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:
  - (1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts specified anatomical areas or shows specified sexual activities and which is harmful to others.
  - (2) Any book, pamphlet, magazine, printed matter however produced, or sound recording which contains any material enumerated in Subsection (b)(1) hereof, or explicit and detailed verbal descriptions or narrative accounts of specified sexual activities and which, taken as a whole is harmful to minors.
- (c) It shall be unlawful for any person knowingly to admit a minor to any premises whereon there is exhibited nudity or specified sexual activities which is harmful to minors unless such minor is accompanied by his/her parent or legal guardian.
- (d) Any person violating this Section shall be subject to the penalty provisions of Section 1.1.7.

**Section 11.7.5** Reserved for Future Use.

**Section 11.7.6** Reserved for Future Use.

**Section 11.7.7** Reserved for Future Use.

**Section 11.7.8** Reserved for Future Use.

**Section 11.7.9** Reserved for Future Use.

**Section 11.7.10** Reserved for Future Use.

**Section 11.7.11** Reserved for Future Use.

**Section 11.7.12** Reserved for Future Use.

**Section 11.7.13** Reserved for Future Use.

**Section 11.7.14** Reserved for Future Use.

**Section 11.7.15** Reserved for Future Use.

**Section 11.7.16** Reserved for Future Use.

**Section 11.7.17** Reserved for Future Use.

**Section 11.7.18** Reserved for Future Use.

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## **Article B: Entertainment Featuring Live Sexually Explicit Performances**

### **Section 11.7.19 Prohibitions Applicable to Premises Holding Alcohol Beverage Licenses.**

- (a) It shall be unlawful for any owner or operator of premises holding a Class "A," "Class A," Class "B," or "Class B," or "Class C" Alcohol Beverage license to permit any person to expose to public view on the licensed premises any specified anatomical area as defined in this Chapter, or to employ any device which is intended to give the appearance of or simulate such specified anatomical areas or publicly display or perform any specified sexual activities on the licensed premises.
- (b) Any licensee who permits a violation of Subsection (a) above shall be subject to revocation of all alcohol beverage licenses issued by the City to the licensee.

### **Section 11.7.20 Sexually Explicit Live Adult Entertainment.**

- (a) This Section applies only to premises offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings. Appearance in public in a state of nudity is prohibited by Section 11.7.3.
- (b) No person shall open premises to the public offering live performances by persons appearing in a state of partial nudity displaying some portions of specified anatomical areas not covered by fully opaque coverings, whether such persons are paid for such performance or not, unless the person opening the premises has obtained a license from the Common Council pursuant to Section 11.7.22 and is in full compliance with other City regulations, including zoning regulations.

- (c) No person, employee, entertainer or patron shall be permitted to have any physical contact with any entertainer on the premises during any performance. All performance shall only occur on a stage, or on a table that is elevated at least eighteen (18) inches above the immediate floor level and, to prevent actual physical contact between the entertainer and any other person, employee or patron, shall not be less than five (5) feet from any area occupied by any patron. Patrons shall not have any physical contact with, and shall not be less than five (5) feet from, any entertainer during the payment of a tip or gratuity.

## **Section 11.7.21 Annual Adult Entertainment License.**

- (a) **Application.** Applications for an annual adult entertainment license shall be made to the City Clerk. The City Clerk shall notify the Police Department and Fire Inspector of the license application, publish a Class I notice of such application and have the license application submitted to the Common Council within thirty (30) days of application. Investigating officials shall submit written reports and recommendations to the Common Council. A public hearing shall be held on the application, preceded by a Class II notice. The Common Council may take any testimony regarding the granting or denial of such license.
- (b) **Action.** The Common Council shall either approve, modify or reject the application; the reasons for the action taken shall be specified in the written record of the Common Council.
- (c) **Probationary Period.** If license issuance is approved by a majority of the Common Council, an initial applicant shall be granted a probationary license by the City Clerk. An annual license shall be granted if, upon the expiration of the six (6) month probationary period, no violations under this Article occur and the applicant corrects any deficiencies or problems that the applicant is directed to correct. If, however, for any reason, the application is denied by the Common Council, the Common Council shall specify the findings made that support that denial.
- (d) **License Term.** The license granted under this Article shall expire on June 30th of each year and each license shall be subject to revocation as hereinafter provided.
- (e) **Form of License.** The City Clerk shall be responsible for, following Common Council action, issuing all licenses under this Section. All such licenses shall specify the nature of the holder and the license and the date for which it is applicable, as well as any conditions that may be imposed by the City. All such licenses shall be open to public inspection and posted in public view on the premises for which issued.
- (f) **Fee.** All such license applications shall be accompanied by a fee as set by the City Council from time to time. If for any reason the license is denied, one-half (1/2) of the license fee shall be returned to the applicant. If the license is granted, the entire fee will be kept by the City.
- (g) **Number of Licenses Limited.** No more than three (3) annual adult entertainment licenses, issued under this Article, shall be issued within the City of Hillsboro at one (1)

time, and no more than one (1) license shall be issued to any one (1) individual, partnership or corporation.

## **Section 11.7.22      Renewals.**

The holder of an annual license granted under this Article shall submit an application for renewal at least sixty (60) days before the expiration of the license; failure to comply with this application schedule shall mean that the license shall lapse and any new application shall be reviewed as a new application. Such license may be renewed pursuant to the provisions of Section 11.7.21 as that Section applies to notice being given by the City Clerk and provisions for publication and action by the Common Council.

## **Section 11.7.23      Regulations.**

Any license holder governed by this Article shall comply with the following regulations:

- (a) No dancing shall be permitted by any performers under the auspices of the management, whether paid or not, within six (6) feet from any location from which patrons are directly served, while so entertaining the patrons.
- (b) No dancer, performer, or any individual, who is performing, singing, or dancing, shall have either direct or indirect (i.e., lap dancing) physical contact with any patron.
- (c) While dancing is in progress, the establishment shall be adequately illuminated so as to permit safe ingress and egress from the premises.
- (d) Good order shall be maintained at all times. Without limitation due to enumeration, a lack of "good order" for purposes of this Article shall be deemed to include persistent loud noises to the annoyance or detriment of surrounding property owners, patrons urinating in public, profane language and/or fighting.
- (e) The premises shall close and all patrons shall vacate the premises between midnight and 10:00 a.m. Sunday through Friday, and midnight to noon on Saturday.
- (f) The license holder shall insure that building capacity limits as set by the Fire Department and/or Building Code are complied with at all times.
- (g) The license holder shall comply with all applicable State Statutes and regulations and all county and City ordinances.
- (h) The management, license holder and employees shall obey all reasonable orders or directions of any law enforcement officer.
- (i) The performance of any dance by performers under the auspices of the management shall be given only on a raised portion of the floor separated by a railing or other device from the patrons so as to deter patrons from participating in the dance.
- (j) No license holder, personally or through an agent or employee, shall advertise, allow or produce nude entertainment or performances in violation of this Section or in violation of any City Ordinance or State Statute.

- (k) The license holder shall not permit any person to publicly perform specified sexual activities on the licensed premises.
- (l) The licensee shall not permit any person to touch any performer's specified anatomical areas during a public performance.
- (m) The use of simulated sexual organs during dances or performances is prohibited.
- (n) No license holder shall permit any amateur dancing, entertainment, or performances on the license holder's premises in violation of this Section or any applicable State or Federal laws.

### **Section 11.7.24 Location.**

- (a) No establishment licensed under this Article shall permit any performance or entertainment governed by this Article to occur within five hundred (500) feet of any area zoned for residential, church, school, nursing home, public park, or day care center uses, or other establishment licensed under this Article. No establishment licensed under this Article shall be located within five hundred (500) feet of any other establishment licensed under this Article, within five hundred (500) feet of any business holding an alcohol beverage license, or as otherwise limited by the City's Zoning Code.
- (b) For purposes of this Section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-oriented establishment to the nearest property line of another adult-oriented establishment, school, place of worship, residential district or business holding an alcohol beverage license.

### **Section 11.7.25 Penalty.**

In addition to any other actions allowed by law or taken by the Common Council, including the action of license revocation or non-renewal, anyone who violates any of the provisions of this Article shall be subject to forfeiture as prescribed by Section 1.1.7, for each and every offense, together with the costs of prosecution. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law. Citations may be issued to the license holder or to his/her employees, operators or agents.

### **Section 11.7.26 License Suspension, Revocation or Non Renewal.**

- (a) **In General.** Any adult entertainment license granted herein may be revoked, suspended, or not be renewed by the Common Council as follows:



- (1) If the applicant has made or recorded any statement required by this Article knowing it to be false or fraudulent or intentionally deceptive.
  - (2) For the violation of any provision of this Article, except for establishment license matters involving a violation of Zoning, Property Maintenance or Building Codes, in such case the license shall be revoked after the second (2nd) conviction thereof in any license year.
  - (3) After one (1) conviction of any establishment personnel of an offense under Ch. 944, Wis. Stats., or of an offense against the person or property of a patron of the property or of an offense involving substance scheduled in Subchapter II of Ch. 961, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.
- (b) **Notice of Hearing.** No license shall be revoked, suspended, or not renewed by the Common Council except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Common Council. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.
- (c) **Hearing.** The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on his or her own behalf under subpoena by the Common Council if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Common Council shall prepare findings of fact and conclusions of law as to what, if any, action the Common Council will take with respect to the license. The Common Council shall provide the complainant and licensee with a copy of the report.

## **Section 11.7.27 License Transfer.**

Any license granted under the provisions of this Article shall not be transferable. All license applications shall be original or for a renewal.

**Section 11.7.28** Reserved for Future Use.

**Section 11.7.29** Reserved for Future Use.

**Section 11.7.30** Reserved for Future Use.

**Section 11.7.31** Reserved for Future Use.

**Section 11.7.32** Reserved for Future Use.

**Section 11.7.33** Reserved for Future Use.

**Section 11.7.34** Reserved for Future Use.

**Section 11.7.35** Reserved for Future Use.

**Section 11.7.36** Reserved for Future Use.

**Section 11.7.37** Reserved for Future Use.

**Section 11.7.38** Reserved for Future Use.

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## Article C: Adult Oriented Establishments

### Section 11.7.39 Intent of Article.

It is the purpose of this Article to regulate adult oriented establishment businesses (hereinafter referred to as adult oriented establishments) to promote the health, safety, morals, and the general welfare of the citizens of the City of Hillsboro, to aid in the alleviation and prevention of the adverse and deleterious effects of criminal activity and disruption of the public peace associated with such establishments, and to establish reasonable and uniform regulations to prevent the serious health hazards associated with unsafe and unsanitary conditions known to exist in those establishments and to alleviate the spread of sexually transmitted diseases and other contagious diseases in those establishments.

### Section 11.7.40 Adult Oriented Establishment License Required.

- (a) Except as provided in Subsection (d) below, no adult oriented establishment shall be operated or maintained within the corporate limits of the City of Hillsboro without first obtaining a license to operate issued by the City of Hillsboro.
- (b) A license may be issued only for one (1) adult oriented establishment located at a fixed and certain place per filed application. Each oriented establishment must have a license.
- (c) No license or interest in a license may be transferred to any person, partnership, or corporation except as set forth in Section 11.7.49. No more than one (1) license shall be issued to any one (1) individual, partnership or corporation.
- (d) All adult oriented establishments existing at the time of the original passage of this Chapter must submit an application for a license within ninety (90) days of the passage of this Chapter. If an application is not received within said ninety (90) day period, then such existing adult oriented establishment shall cease operations.

### Section 11.7.41 Application for License.

- (a) **License Procedure.** Any person, partnership, or corporation desiring to secure an adult oriented establishment license shall make application to the City Clerk. The application

shall be filed in triplicate with and dated by the City Clerk. A copy of the application shall be distributed within ten (10) days of receipt thereof to the Police Department, Fire Inspector, Building Inspector, and to the applicant. The procedures prescribed in Section 11.7.22(a) through (c) shall be applicable to adult entertainment licenses under this Article.

- (b) **Required Information.** The application for a license shall be upon a form provided by the City Clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, all officers or directors of a corporate applicant, all members of any limited liability company applicant, and any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:
- (1) Name, including all aliases, address and date of birth of applicant;
  - (2) Written proof that the individual is at least eighteen (18) years of age;
  - (3) All residential addresses of the applicant for the past ten (10) years;
  - (4) The business, occupation, or employment of the applicant for ten (10) years immediately preceding the date of application;
  - (5) The exact nature of the adult entertainment to be conducted;
  - (6) Whether the applicant previously operated in this or any other state, county or municipality under an adult oriented establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation (the applicant shall provide the name of the municipality/state where such license was suspended or revoked);
  - (7) All criminal and traffic convictions, whether federal or State, or municipal Ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except traffic offenses;
  - (8) Fingerprints made by a law enforcement agency and two (2) portrait photographs of at least two (2) inches by two (2) inches of the applicant;
  - (9) The address of the adult oriented establishment to be operated by the applicant;
  - (10) Proof of right to occupy under Section 11.7.43(d); and
  - (11) If the applicant is a corporation, the application shall specify the name of the corporation, the date and State of incorporation, and the name and address of the registered agent of the corporation.
- (c) **Failure to Provide Information.** Failure or refusal of the applicant to provide any information for the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or refusal to submit to or cooperate with any investigation required by this Section, shall constitute an admission by the applicant of ineligibility for such license and shall be grounds for denial thereof.

## Section 11.7.42 Standards for Issuance of a License.

- (a) **General Requirements.** To receive a license to operate an adult establishment, an applicant must meet the following standards:
- (1) If the applicant is an individual:
    - a. The applicant shall be at least eighteen (18) years of age;
    - b. Subject to Chapter 111, Wis. Stats., the applicant shall not have been convicted of or pleaded nolo contendere, or have charges pending or deferred prosecution, to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and
    - c. The applicant shall not have been found to have previously violated this Article within five (5) years immediately preceding the date of the application.
  - (2) If the applicant is a corporation:
    - a. All officers, directors, and others required to be named under Section 11.7.42(b) shall be at least eighteen (18) years of age;
    - b. Subject to Chapter 111, Wis. Stats., no officer, director, or other person required to be named under Section 11.7.42(b) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and
    - c. No officer, director or other person required to be named under Section 11.7.42(b) shall have been found to have previously violated this Article within five (5) years immediately preceding the date of the application.
  - (3) If the applicant is a partnership, joint venture, limited liability company or any other type of organization where two (2) or more persons have a financial interest:
    - a. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age;
    - b. Subject to Chapter 111, Wis. Stats., no person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and
    - c. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this Article within five (5) years immediately preceding the date of the application.
- (b) **Investigation.** No license shall be issued unless the City of Hillsboro Police Department has investigated the applicant's qualifications to be licensed. The results of

that investigation shall be filed in writing with the City Clerk no later than fourteen (14) days after the application.

- (c) **Inspection.** The Fire Inspector and/or Police Department shall inspect the premises proposed to be licensed to verify compliance with their respective Codes, and shall report compliance findings to the City Clerk within thirty (30) days of the date of application.
- (d) **Proof.** No license shall be issued unless the applicant provides proof of one (1) of the following:
  - (1) Ownership of a properly zoned building or parcel of real property upon which a building can be constructed. Proper zoning includes permissible non-conforming use status.
  - (2) A lease on a building which is properly zoned to house a venture. Proper zoning includes permissible non-conforming use status.
  - (3) An option to purchase property which is properly zoned for the venture.
  - (4) An option to lease property which is properly zoned for the venture. Proper zoning includes permissible non-conforming use status.

### **Section 11.7.43 License Fee.**

A non-refundable adult oriented establishment license application fee as set by the City Council from time to time shall be submitted with the application for a license.

### **Section 11.7.44 Display of License or Permit.**

The adult oriented establishment license shall be displayed in a conspicuous public place in the adult oriented establishment.

### **Section 11.7.45 Renewal of License or Permit.**

- (a) Every license issued pursuant to this Article will terminate on June 30 of the period for which the license is issued, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Clerk. A copy of the application for renewal shall be distributed by the City Clerk to the Police Department, Fire Inspector and the applicant. The application for renewal shall be upon a form provided by the City Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

- (b) A license renewal fee as set by the City Council from time to time shall be submitted with the application for renewal.
- (c) If the Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the City Clerk.

### **Section 11.7.46 Denial of Application.**

- (a) Whenever an initial application is denied, the City Clerk shall, within fourteen (14) days of the denial, advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held at the next regularly scheduled meeting of the Common Council.
- (b) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this Article shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Clerk.

### **Section 11.7.47 Transfer of License.**

Licenses may not be transferred. All license applications shall be original or for a renewal.

### **Section 11.7.48 Physical Layouts of Adult Oriented Establishments.**

Any adult oriented establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any motion picture, videotape or compact disc in which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas must comply with the following requirements:

- (a) **Access.** Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult oriented establishment and shall be unobstructed by any door, lock or other control-type devices.
- (b) **Construction.** Every booth, room or cubicle shall meet the following construction requirements:
  - (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms, cubicles and any non-public areas by a wall.

- (2) Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
  - (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet, and be light colored, non-absorbent, smooth textured and easily cleanable.
  - (4) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
  - (5) The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
- (c) **Occupants.** Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of specified sexual activity, cause any bodily discharge or litter while in the booth. No person shall alter, damage or deface any portion of any such booth, room or cubicle in such a manner that it no longer complies with the provisions of this Section.

## Section 11.7.49 Responsibilities of Operators.

- (a) An operator, licensed under this Article, shall maintain a register of all employees, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, Social Security Number, and date of employment and termination. The above information on each employee shall be maintained in the register on the premises of a period of three (3) years following termination.
- (b) The operator shall make the register of employees available immediately for inspection by law enforcement officers upon demand of a member of a law enforcement agency at all times.
- (c) Every act or omission by an employee constituting a violation of the provisions of this Article shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (d) Any act or omission of any employee constituting a violation of the provisions of this Article shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended, or renewed.
- (e) No employee of an adult oriented establishment shall allow any minor to loiter around or to frequent an adult oriented establishment or to allow any minor to view sexually-explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas as defined herein.
- (f) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (g) The operator shall ensure compliance of the establishment and its patrons with the provisions of this Article.



- (h) The operator shall ensure there is conspicuously posted inside each booth, room or cubicle an un-mutilated and undefaced sign or poster supplied by the licensee and approved by the Common Council which contains information regarding sexually transmitted diseases and the telephone numbers from which additional information can be sought.
- (i) The operator shall ensure there is conspicuously displayed at a place near the main entrance of the establishment, or portion thereof, any information, brochures, or pamphlets supplied by the City pertaining to sexually transmitted diseases.
- (j) The operator shall ensure there are posted regulations concerning booth occupancy on signs, with lettering at least one (1) inch high, that are placed in conspicuous areas of the establishment and in each of the booths, rooms or cubicles.
- (k) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult oriented establishment at any time the adult oriented establishment is open for business.
- (l) It shall be the duty of the operator of each adult oriented establishment to ensure that an attendant is stationed at each public entrance to the adult oriented establishment at all times during regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the adult oriented establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
  - (1) A valid operator's, commercial operator's, or chauffeur's driver's license; or
  - (2) Personal identification card issued by the State of Wisconsin reflecting that such person is eighteen (18) years of age or older.
- (m) No adult oriented establishment regulated by this Chapter may remain open between the hours of 2:00 a.m. and 8:00 a.m., except on Saturday and Sunday, when the closing hours shall be between 2:30 a.m. and 8:00 a.m.

## **Section 11.7.50 Registration of Employees.**

- (a) All operators, employees, and independent contractors working in any adult oriented establishment hereunder shall, prior to beginning employment or contracted duties, register with the City Clerk. Such registration shall include the following:
- (b) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer; and
- (c) Photographs and fingerprinting.
- (d) Upon registration, the licensee, subject to design approval by the City Clerk, will provide to each registered employee an identification card containing the employee's photograph identifying the employee as such, which shall be kept available for production upon request of all inspecting officers while on duty at such adult oriented establishment.
- (e) All registrations hereunder are valid for a period of one (1) year.

- (f) The registration fee as set by the City Council from time to time shall be paid per registration, which shall be paid to the City to cover costs of investigation and administration.

### **Section 11.7.51 Exclusions.**

All private schools and public schools, as defined in Chapter 115, Wis. Stats., located within the City of Hillsboro are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

### **Section 11.7.52 Penalty.**

In addition to any other actions allowed by law or taken by the Common Council, including the action of a license revocation, suspension or non-renewal, anyone who violates any of the provisions of this Chapter shall be subject to a forfeiture as prescribed by Section 1.1.7, for each and every offense, together with the costs of prosecution. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law.

### **Section 11.7.53 License Suspension, Revocation or Non-Renewal of Licenses.**

- (a) **In General.** Any license granted herein may be revoked, suspended, or not renewed by the Common Council as follows:
- (1) If the applicant has made or recorded any statement required by this Section knowing it to be false or fraudulent or intentionally deceptive;
  - (2) For the violation of any provision of this Article, except for establishment license matters involving a violation of Building, Property Maintenance or Zoning Codes, in such case the license shall be revoked after the second (2nd) conviction thereof in any license year;
  - (3) After one (1) conviction by any establishment personnel of an offense under Ch. 944, Wis. Stats., or of an offense against the person or property of a patron of the property or of an offense involving substance in Subsection II of Ch. 961, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.
  - (4) If the licensee, operator or employer becomes ineligible to obtain a license.

- (5) If an operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without being registered with the City Clerk.
  - (6) If any cost or fee required to be paid by this Section is not paid.
  - (7) If any intoxicating liquor or fermented malt beverage, narcotic or controlled substance is served or consumed on the premises of the adult oriented establishment.
  - (8) If any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any material depicting specified sexual activities or specified anatomical areas.
- (b) **Notice of Hearing.** No license shall be revoked, suspended, or not renewed by the Common Council except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Common Council. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.
- (c) **Hearing.** The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on his or her own behalf if such is required, and the hearing shall be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Common Council shall prepare findings of fact and conclusions as to what, if any, action the Common Council will take with respect to the license. The Common Council shall provide the complainant and licensee with a copy of the report.

**Section 11.7.54**      Reserved for Future Use.

**Section 11.7.55**      Reserved for Future Use.

**Section 11.7.56**      Reserved for Future Use.

**Section 11.7.57**      Reserved for Future Use.

**Section 11.7.58**      Reserved for Future Use.

# **Title 11 - Chapter 7**

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## **Article D: Houses of Prostitution**

### **Section 11.7.59 Owners and Keepers.**

No person shall keep or maintain or in any way be connected with, or contribute to the support of any prostitution house or house of ill fame or shall knowingly own, or be interested therein as proprietor or landlord thereof.

### **Section 11.7.60 Inmate or Frequenter.**

Any person engaging in prostitution of or found at or frequenting either of the places described in this Article shall be deemed a disorderly person and shall be subject to the penalty hereinafter provided.

### **Section 11.7.61 Prostitution.**

It shall be unlawful for any person to commit or offer or agree to commit a lewd act or an act of prostitution.

# TITLE 12

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## Parks and Navigable Waters

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# Title 12 - Chapter 1

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## Parks and Navigable Waters

### Section 12.1.1 Park Regulations.

- (a) **Purpose and Definition.** In order to protect the parks, parkways, recreational facilities and conservancy areas within the City of Hillsboro from injury, damage or desecration, these regulations are enacted. The term "park" as hereinafter used in this Chapter shall include all grounds, structures and watercourses which are or may be located within any area dedicated to the public use as a park, parkway, recreation facility, play ground, swimming pool or conservancy area in the City.
- (b) **Specific Regulations.**
- (1) ***Littering Prohibited.*** No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any park.
  - (2) ***Sound Devices.*** No person shall operate or play any amplifying system unless specific authority is first obtained from the Chief of Police.
  - (3) ***Bill Posting.*** No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any park, except park regulations and other signs authorized by the Common Council, or designated committee thereof.
  - (4) ***Throwing Stones and Missiles Prohibited.*** No person shall throw stones or other missiles in or into any park.
  - (5) ***Removal of Park Equipment Prohibited.*** No person shall remove benches, bleachers, seats, tables or other park equipment from any park. Organizations may use picnic tables or bleachers by permission of the City Administrator who may require a deposit not to exceed \$500.00 for the use thereof.
  - (6) ***Trapping.*** "Trapping" when used in this Section includes the taking, or the attempting to take, of any wild animal by means of setting or operating any device, mechanism or contraption that is designated, built or made to close upon, hold fast or otherwise capture a wild animal or animals; live traps on a person's property are excluded. The trapping of wild animals is hereby prohibited in City parks, unless authorized by the Common Council.
  - (7) ***Making of Fires.*** No person shall start, tend or maintain a fire except in personal grills or designated fireplaces. Personal grills shall be used only in designated picnic areas. The use of personal grills is permitted provided lawns and vegetation

are not endangered. Unburned fuel and ashes shall be disposed of in such a manner as to prevent fire or damage to any park property.

- (8) ***Protection of Park Property.***
  - a. No person shall kill, injure or disturb or attempt to injure or disturb waterfowl, birds or animals, wild or domestic, within any park, except as permitted by this Chapter. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flower bed, turf, soil, sand, fountain, ornament, building, structure, apparatus, bench, table, official notice, sign, fence, or other property within any park.
  - b. No person shall deface, by throwing stones, pebbles or other debris in any of the toilets, bubblers or other sanitary facilities located in any City park; or deface by drawing with crayon, chalk, paint, or anything else on any of the buildings or equipment at any City park; or deface the equipment by means of a sharp instrument.
- (9) ***Motorized Vehicles.*** Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. Motor vehicles are restricted to the roads and drives and parking areas. No motor vehicles of any nature may be used on the seeded areas except vehicles which have Chief of Police authorization for shows, rides or exhibits and then only for the purpose of loading and unloading.
- (10) ***Snowmobiles.*** No person shall operate a snowmobile in a City park except in designated areas. Snowmobiles shall only be operated on designated trails.
- (11) ***Speed Limit.*** No person shall operate any vehicle in a City park in excess of twenty (20) miles per hour unless otherwise posted.
- (12) ***Glass Beverage Bottles in Parks Prohibited.*** No individual shall possess or consume any beverage in a glass bottle or glass container in any City park.
- (13) ***Reckless Driving in Parks Prohibited.*** No person shall operate a motor vehicle in a reckless manner in any of the public parks of the City.
- (14) ***Parking in Parks.*** No person shall park any motor vehicle in any park in the City except in a designated parking area.
- (15) ***Horse and Carriages.*** No person shall ride a horse or drive a horse-driven vehicle in any park, except on roads or designated bridle paths, except when approval of the Chief of Police is first obtained. It shall be unlawful for any person to ride a horse or drive a horse-driven vehicle in a careless, negligent or reckless manner which may endanger the safety and well-being of others. Horseback riding shall be allowed only during the daylight hours. No person shall ride a horse which cannot be held under such control that it may be easily turned or stopped.
- (16) ***Removing Tree Protectors.*** No person shall remove any device for the protection of trees or shrubs.

- (17) ***Golfing and Sporting Activities.*** No golfing or practicing golf in City parks or recreation areas shall be allowed. All sporting activities must be held in areas so designated for that purpose.
- (18) ***Arrows.*** No person shall use or shoot any bow and arrow in any City park, except in authorized areas.
- (19) ***Fees and Charges.*** The Common Council, upon the recommendation of the City Administrator, shall have the authority to establish such fees as deemed necessary for use of any park facility, shelter or land area. It shall be unlawful to use such areas without payment of such fee or charge when required.
- (20) ***Pets.*** Pets, including animals of any species, shall not be permitted in any City parks, unless pet is leashed or being used by a visually impaired person.
- (21) ***Firearms; Hunting.*** Possessing or discharging of any air gun, sling shot, explosive, firearm or weapon of any kind is prohibited in all City parks.
- (22) ***Fish Cleaning.*** Cleaning of fish in shelters, toilet facilities or picnic areas is prohibited in all City parks.
- (23) ***Controlled Substances.*** Possessing, using or dispensing of a controlled substance in violation of the Uniform Controlled Substances Act is prohibited in all City parks.
- (24) ***Vendors Restricted.*** No person shall sell, vend or give away in any City park any article of merchandise whatever, without a written permit from the City Administrator.
- (25) ***Smoking.*** No person shall smoke or hold a lighted cigarette, cigar or pipe in any no smoking area within any park, or in any other area in any park where notices prohibiting smoking are posted.
- (26) ***Camping.*** No camping shall be permitted in any park, except where prior approval from City Hall is first obtained. Such permit shall not allow more than two (2) days of camping.
- (27) ***Interference With Permittee.*** No person shall, in any manner, harass, disturb or interfere with persons holding a permit granted by the Common Council or City Hall for the use of parks, shelter areas, or park facilities.

*Cross-Reference* Section 11.4.1.

## **Section 12.1.2      Operation of Remote or Radio-Controlled Toys or Devices Prohibited.**

It shall be unlawful for any person to fly, operate or make use of any remote or radio-controlled model airplane, helicopter, vehicle or any other such device in, over or upon any street, park or other public property except in areas specifically designated and posted for such purpose and with the consent of the City.



### **Section 12.1.3 Turf Protection on Public Property.**

Except as authorized by the City Forrester, no person shall dig into the turf of any City-owned park or recreational property for any purposes whatsoever or remove any trees or flowers. Absent authorization by the City Forrester, the use of metal detectors and digging for buried objects on City parks or recreational property is prohibited.

### **Section 12.1.4 Park Hours.**

- (a) **Park Closing Hours.** All City parks shall be closed from 10:00 p.m. to 5:00 a.m. The Common Council may approve of the conduct of functions within the parks beyond 10:00 p.m. by private organizations or individuals if satisfactory evidence is presented to the Common Council that the function will be carried on so as not to disturb the public peace and good order of the City. In granting such approval, the Common Council shall designate the area in which the function shall be carried on and shall indicate the person responsible for the conduct of such function. No person shall be in any City park after 10:00 p.m., except in compliance with this Subsection.
- (b) **Exceptions.** The regular closing hours of the City parks do not apply to persons having permission from the City to be present in the City parks during closed hours on specific days and for specific purposes. The regular closing hours of the City parks do not apply to persons in attendance at a regularly scheduled ball game at a City ball diamond, except that those persons shall vacate the park within fifteen (15) minutes after the ending of a regularly scheduled game.
- (c) **Emergency Park Closing and Opening.** The Chief of Police, City Administrator, or Common Council will have full authority to open and close any park, facility or area because of weather conditions, physical condition, construction or when, in the interest of public safety, it is deemed necessary.

### **Section 12.1.5 Park Use Permits**

- (a) **Purpose and Findings.** City parks, park facilities, and park shelters are for the nonexclusive use and enjoyment of City residents and visitors. However, the City has found that large groups and gatherings using the City's parks, park facilities and park shelters have a greater impact on the City's resources, and the Council has determined that the City needs to regulate the use of City parks, park facilities, and park shelters by large groups to help offset the costs associated with such use and for the public health, safety, and welfare.

- (b) **Permit Required.** Any person, group, or organization wishing to use or reserve a park facility or park shelter for an event shall obtain a Park Use Permit, and any person, group, or organization planning an event located within a City park that is reasonably expected to be attended by fifty (50) persons or more shall obtain a Park Use Permit. Any person, group, or organization requesting exclusive use of an entire City park or planning an event located within a City park that is reasonably expected to be attended by one hundred (100) persons or more shall obtain a Special Park Use Permit. No permits shall be required for events sponsored by the City of Hillsboro. The Common Council shall establish a permit fee schedule.
- (c) **Permit Applications.** All applications shall be made in writing on application forms available in the City Clerk's office. Park Use Permit applications must be received at least three (3) days prior to the date of the event. Special Park Use Permit applications must be received at least thirty (30) days prior to the date of the event. The applicant must submit payment of the required fee with the application. Permit applications shall contain at least the following information:
- (1) Name, address, and telephone number of the applicant;
  - (2) If the applicant is a group or organization, the name, address, and telephone number of the responsible person, officer, or representative;
  - (3) The park, park facility, or park shelter that the applicant wishes to use, and whether the applicant seeks a regular use permit or special use permit;
  - (4) The date and time of the event and the date and time the applicant wishes to begin use for set up, if earlier;
  - (5) The nature of the event and the anticipated number of event attendees.
  - (6) Details of any planned set-up or other temporary structures that may be used during the event.
  - (7) The City may require additional information if necessary to evaluate the application.
- (d) **Action on Application.** Completed Park Use Permit applications submitted to the City Clerk's office with the required fee will be processed by the City Clerk on a first-come first-served basis, however any Park Use Permit applications for events anticipating more than 100 attendees and all Special Park Use Permit applications shall be forwarded to the Common Council for consideration and action. Applications for a Park Use Permit or Special Park Use Permit may be denied by the City for any of the following reasons:
- (1) The application is untimely or incomplete, including non-payment of required fee.
  - (2) A permit has already been issued that conflicts with the event.
  - (3) A City-sponsored event will conflict with the event.
  - (4) The anticipated nature of the use would violate local, state, or federal law.
  - (5) The anticipated nature of the use creates a substantial risk of injury to attendees or bystanders, or of damage to property.
  - (6) The anticipated nature of the use would require a level of security, utilities, and other resources that the City is unable to provide without straining the provisions of services to the rest of the City.
  - (7) The applicant has outstanding invoices or charges due to the City.

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The Common Council may approve or deny the permit application, or may approve the application subject to additional conditions to address any concerns or issues the Council deems necessary for general public health, welfare, safety, and good order of the City.

- (e) **Indemnification.** The City may require the applicant to file evidence of adequate insurance or financial surety to the benefit of the City and such other third parties as may be injured or damaged as a result of the applicant's use of the City park, park facility or park shelter.
- (f) **Revocation.** At any time, the City Clerk, City Administrator, or Chief of Police may revoke an issued permit if the anticipated use may create a dangerous condition to attendees, spectators, bystanders, City employees, or property due to severe weather, natural causes, fire, or breach of the peace.
- (g) **Sales of Class B Fermented Malt Beverages.** Any person, group or organization wishing to sell Fermented Malt Beverages, as that term is defined in this Code, in any City-owned park, park facility or park shelter must also obtain a Fermented Malt Beverage license under Chapter 7.2. of this Code. Sale of such items must comply with all other local ordinances. The applicant must carry the Fermented Malt Beverage license at the event and shall present it to any authorized law enforcement officer, employee or representative of the City upon request.
- (h) **Event.** Any person, group or organization holding a Park Use Permit or Special Park Use Permit must carry or display the permit at the event and shall present it to any law enforcement office, employee, or representative of the City upon request.
  - (1) **Clean-up.** All persons, groups or organizations holding a Park Use Permit or Special Park Use Permit are responsible for cleaning up the facilities after the event, including but not limited to placing all refuse in designated trash cans and returning any benches or tables to their original location.
  - (2) **Damage to City Property.** Any person, group or organization holding a Park Use Permit or Special Park Use Permit is responsible for all damage to City property caused by any attendees. After the event, the City Clerk, shall create an invoice documenting and accounting for any damage to City property resulting from the event. Failure to pay for damage caused shall be sufficient grounds for denial of all future permit applications.
- (i) **Enforcement and Penalties.** Any authorized law enforcement officer or other City personnel charged with enforcing this Section may issue a citation to any person for failure to have the required permit.
  - (1) Any person that fails to obtain a Park Use Permit when required shall be subject to the following forfeitures upon conviction:
    - a. **First Offense.** A forfeiture of One Hundred Dollars (\$100.00) plus any damage or additional costs incurred by the City from the event, together with costs of prosecution.
    - b. **Second Offense.** A forfeiture of Two Hundred Dollars (\$200.00) plus any damage or additional costs incurred by the City from the event, together with costs of prosecution.

- (2) Any person that fails to obtain a Special Park Use Permit when required shall be subject to the following forfeitures upon conviction:
- a. **First Offense.** A forfeiture of Two Hundred and Fifty Dollars (\$250.00) plus any damage or additional costs incurred by the City from the event, together with costs of prosecution.
  - b. **Second Offense.** A forfeiture of Five Hundred Dollars (\$500.00) plus any damage or additional costs incurred by the City from the event, together with costs of prosecution.

*Cross-Reference* Sections 7.2.11 and 11.4.1.

## **Section 12.1.6      Watercraft on Field-Veteran's Memorial Lake.**

Motor driven watercraft, including motorboats and other motor driven devices, shall be allowed on Field Veteran's Memorial Lake only when operated at a speed of slow-no-wake.

*Cross-Reference:* Wis. State Stat. 30.635

# TITLE 13

## Land Use Regulations

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# Zoning Code

## Article A: Introduction

### Section 13.1.1 Authority.

This Chapter is adopted under the authority granted by Secs. 62.23(7) and 87.30, Wis. Stats., and amendments thereto.

*State Law Reference:* Secs. 62.23(7) and 87.30, Wis. Stats.

### Section 13.1.2 Title.

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

### Section 13.1.3 General Purpose.

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

### Section 13.1.4 Intent and Purposes in View.

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

- (a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people;

- (b) Divide the City into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- (c) Protect the character and the stability of the residential, business, manufacturing and other districts within the City and to promote the orderly and beneficial development thereof;
- (d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
- (e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
- (f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;
- (h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the City;
- (i) Preserve and protect the beauty of the City of Hillsboro;
- (j) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
- (k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- (l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
- (m) Further the maintenance of safe and healthful water conditions;
- (n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (o) Provide for and protect a variety of suitable commercial and industrial sites;
- (p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the City of Hillsboro;
- (r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

### **Section 13.1.5 Abrogation and Greater Restrictions.**

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

### **Section 13.1.6 Interpretation.**

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of Hillsboro.

### **Section 13.1.7 Severability and Non-Liability.**

- (a) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

### **Section 13.1.8 Repeal and Effective Date.**

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

**Section 13.1.9** Reserved for Future Use.

**Section 13.1.10** Reserved for Future Use.

**Section 13.1.11** Reserved for Future Use.

**Section 13.1.12** Reserved for Future Use.

**Section 13.1.13** Reserved for Future Use.

**Section 13.1.14** Reserved for Future Use.

**Section 13.1.15** Reserved for Future Use.

**Section 13.1.16** Reserved for Future Use.

**Section 13.1.17** Reserved for Future Use.

**Section 13.1.18** Reserved for Future Use.

**Section 13.1.19** Reserved for Future Use.

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## Article B: General Provisions

### Section 13.1.20 Jurisdiction and General Provisions.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the City of Hillsboro.
- (b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.
- (c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.
- (d) **Yard Reduction or Joint Use.**
  - (1) No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.
  - (2) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this Code shall be included as a part of a yard or other open space required for another building.
- (e) **One Main Building per Lot.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one (1) main building on one (1) lot.
- (f) **Lots Abutting More Restrictive District.** Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two (2) districts which abut the district boundary line.

### Section 13.1.21 Use Regulations.

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

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



- (b) **Accessory Uses.** Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.
- (c) **Conditional Uses.**
  - (1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Common Council, following Plan Commission recommendation, in accordance with Article D of this Chapter excepting those existent at time of adoption of the Zoning Code.
  - (2) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Common Council, following Plan Commission recommendation, in accordance with Article D of this Chapter.
  - (3) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Common Council, following Plan Commission recommendation, in accordance with Article D of this Chapter.
  - (4) Conditional uses authorized by Common Council resolution, following Plan Commission recommendation, shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
- (d) **Temporary Uses.** Temporary uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Zoning Administrator.
- (e) **Uses Not Specified in Code.**
  - (1) Uses not specified in this Chapter which are found by the Common Council to be sufficiently similar to specified permitted uses for a district shall be allowed by Zoning Administrator.
  - (2) Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Common Council after consideration and recommendation by the Common Council, public hearing and approval in accordance with Article C of this Chapter.

### **Section 13.1.22 Site Regulations.**

- (a) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of sixty (60) feet; however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.
- (b) **Principal Structures.** All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot. The Common Council may permit as a conditional use more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Common Council may impose

- additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
- (c) **Dedicated Street.** No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
  - (d) **Lots Abutting More Restrictive Districts.** Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than sixty (60) feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
  - (e) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Common Council by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Common Council, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Common Council may affirm, modify or withdraw its determination of unsuitability.
  - (f) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Common Council, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
  - (g) **Decks; Porches.** For purposes of this Chapter, decks and porches shall be considered a part of a building or structure. However, unenclosed porches not exceeding fifty (50) square feet in area, whether covered or uncovered, may project up to six (6) feet into a required front setback area.

### **Section 13.1.23      Height and Area Exceptions.**

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- (a) Churches, schools, hospitals, sanitoriums and other public and quasi-public buildings may be erected to a height not exceeding thirty-six (36) feet nor three (3) stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- (b) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials; microwave radio relay structures; telephone, telegraph and power poles and lines and necessary mechanical appurtenances are hereby excepted from the height regulations of this Code and may be erected in accordance with other regulations or codes of the City.
- (c) Residences in the residence district may be increased in height by not more than ten (10) feet when all yards and other required open spaces are increased by one (1) foot for each foot when such building exceeds the height limit of the district in which it is located.
- (d) Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.
- (e) Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than twenty-four (24) inches.
- (f) Open or enclosed fire escapes and fire towers may project into a required yard not more than five (5) feet and into a required court not more than three and one-half (3-1/2) feet, provided it be so located as not to obstruct light and ventilation.

### **Section 13.1.24      Reduction or Joint Use.**

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

**Section 13.1.25** Reserved for Future Use.

**Section 13.1.26** Reserved for Future Use.

**Section 13.1.27** Reserved for Future Use.

**Section 13.1.28** Reserved for Future Use.

**Section 13.1.29** Reserved for Future Use.

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## Article C: Zoning Districts

### Section 13.1.30 Zoning Districts Designated.

For the purpose of this Chapter, the City of Hillsboro is hereby divided into the following fourteen (14) zoning districts:

- (1) R-1 Single-Family Residential District (Low Density)
- (2) R-2 Single-Family Residential District (Medium Density)
- (3) R-3 Two-Family Residential District
- (4) R-4 Multiple-Family Residential District
- (5) R-5 Rural Development District
- (6) CON Conservancy District
- (7) C-1 General Commercial District
- (8) C-2 Highway Commercial District
- (9) I-1 Industrial/Commercial District
- (10) L-1 Light Industrial/Institutional District
- (11) P-1 General Park District
- (12) PUD Planned Unit Development
- (13) A-1 Agricultural District
- (14) MW Municipal Well Recharge Area Overlay District

### Section 13.1.31 District Boundaries.

- (a) **Zoning Map.** The boundaries of the districts enumerated in Section 13.1.30 above are hereby established as shown on a map entitled "Zoning Map, City of Hillsboro, Wisconsin," which is adopted by reference and made a part hereof. The map shall bear upon its face the attestation of the Mayor and the City Clerk and shall be available to the public in the office of the City Clerk.
- (b) **Boundary Lines.**
  - (1) The boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property lines; center lines of streets, highways, alleys, easements and railroad rights-of-way; or such lines extended unless otherwise noted on the Zoning Map.

- (2) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the Zoning Map are approximately bounded by lot lines, said lot line shall be construed to be the boundary of the district.
- (3) In unsubdivided property, the district boundary lines shown on the Zoning Map shall be determined by use of the scale shown on such map.
- (c) **Vacation.** Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (d) **Annexations and Consolidations.** Annexations to or consolidations with the City subsequent to the effective date of this Chapter shall be placed in the R-5 Rural Development Residential District unless the annexation ordinance temporarily placed the land in another district.

### **Section 13.1.32 R-1 Single-Family Residential District (Low Density).**

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of single-family detached dwelling units at a low dwelling unit per acre density.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-1 District:
  - (1) Single-family dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
  - (2) Manufactured homes complying with all of the following requirements and limitations:
    - a. The home shall be at least twenty-four (24) feet in width and thirty-six (36) feet in length.
    - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. There shall be no wheels or permitted. The enclosed foundation system shall be approved by the Building Inspector and/or City Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
    - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
    - d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.

- e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the City of Hillsboro.
- (3) One (1) private garage with not more than three (3) stalls for each residential parcel, per Section 13.1.131 specifications.
- (4) Accessory uses and buildings as follows:
  - a. Gardening, tool and storage sheds incidental to the residential use, per Section 13.1.131 specifications,
  - b. Off-street parking facilities.
  - c. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
  - d. Signs as permitted by City ordinances.
- (5) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
- (6) Foster family care.
- (7) Home occupations and professional home offices complying with Section 13.1.63.
- (8) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the R-1 District:
  - (1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
  - (2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
  - (3) Bed and breakfast inns.
  - (4) Churches, schools, and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops.
  - (5) Public utility structures, except those incompatible with the characteristics of the district.
  - (6) Parks and playgrounds.
  - (7) Golf courses and private clubs.
  - (8) Sewage disposal facilities.
  - (9) Nursery schools.
  - (10) Hospitals and medical clinics.
  - (11) Cemeteries.
- (d) **Area, Height and Yard Requirements.**
  - (1) **Lot Area.**
    - a. Minimum ten thousand (10,000) square feet.
    - b. Width: Minimum ninety (90) feet.
  - (2) **Building Height.** Maximum thirty-five (35) feet.
  - (3) **Yard (Building Setbacks).**
    - a. Street: Minimum twenty-five (25) feet.

- b. Rear: Minimum twenty-five (25) feet.
- c. Side: Minimum seven (7) feet each side.
- (4) **Building Dimensions.** Minimum one thousand two hundred (1,200) square feet.
- (e) **Building Requirements for Principal Structures.**
  - (1) **Size.**
    - a. Minimum width of each and every side: Twenty (20) feet.
    - b. Minimum height from roof peak to grade: Fifteen (15) feet.
  - (2) **Soffits.**
    - a. A soffit of at least twelve (12) inches in minimum width.
  - (3) **Basements.**
    - a. A full basement of at least seven (7) feet in depth.
    - b. A poured concrete basement floor.

**NOTE:** Those existing uses which will be made non-conforming by adoption of Subsection (e) on October 26, 1995 will be classified as "conditional uses" for the district(s) in which they are located at the time of adoption of Subsection (e) and require no action of the Common Council for them to continue as valid conditional uses, and the same shall be deemed to be "limited" conditional uses. Such limited conditional uses existent at the time of adoption of Subsection (e) shall be required to come into accordance with the requirements of Subsection (e) upon a change of ownership of the properties where located. Change to conditional use of other than same or similar type shall require procedures and approval in accordance with this Chapter.

### **Section 13.1.33 R-2 Single-Family Residential District (Medium Density).**

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of primarily single-family and two-family detached dwelling units at a medium dwelling unit per acre density. It particularly reflects older neighborhoods in the City of Hillsboro.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-2 District:
  - (1) Single-family dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
  - (2) Manufactured homes complying with all of the following requirements and limitations:
    - a. The home shall be at least twenty-four (24) feet in width and thirty-six (36) feet in length.
    - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. There shall be no wheels and axles permitted. The enclosed foundation system shall be approved by the Building Inspector and/or City Engineer; the Building Inspector may require a plan to



- be certified by a registered architect or engineer to ensure proper support for the home.
- c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
  - d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
  - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the City of Hillsboro.
- (3) One (1) private garage with not more than three (3) stalls for each residential parcel, per Section 13.1.131 specifications.
  - (4) Accessory uses and buildings as follows:
    - a. Gardening, tool and storage sheds incidental to the residential use, per Section 13.1.131 specifications.
    - b. Off-street parking facilities.
    - c. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
    - d. Signs as permitted by City ordinances.
  - (5) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
  - (6) Foster family care.
  - (7) Home occupations and professional home offices complying with Section 13.1.63.
  - (8) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the R-2 District:
- (1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
  - (2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
  - (3) Bed and breakfast inns.
  - (4) Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops.
  - (5) Public utility structures, except those incompatible with the characteristics of the district.
  - (6) Parks and playgrounds.
  - (7) Golf courses and private clubs.
  - (8) Sewage disposal facilities.
  - (9) Nursery schools.
  - (10) Hospitals and medical clinics.

- (11) Cemeteries.
- (d) **Area, Height and Yard Requirements.**
  - (1) ***Lot Area.***
    - a. Minimum seven thousand five hundred (7,500) square feet.
    - b. Width: Minimum sixty-six (66) feet.
  - (2) ***Building Height.*** Maximum thirty-five (35) feet.
  - (3) ***Yard (Building Setbacks).***
    - a. Street: Minimum twenty-five (25) feet.
    - b. Rear: Minimum twenty-five (25) feet.
    - c. Side: Minimum ten (10) feet each side.
  - (4) ***Building Dimensions.*** Minimum eight hundred (800) square feet.

### **Section 13.1.34 R-3 Two-Family Residential District.**

- (a) **Purpose.** The regulations set forth in this Section or set forth elsewhere in this Chapter, when referred to in this Section, are the regulations in the R-3 Two-Family Residential District. This District is intended to provide two-family dwellings, such as duplexes, flats or apartment conversions in large, older, single-family dwellings.
- (b) **Permitted Uses.** A building or premise shall be used only for the following purposes:
  - (1) Two-family dwellings.
  - (2) Boarding houses and lodging houses.
  - (3) Publicly owned or operated park, playground or community building provided that any building shall be located not less than twenty-five (25) feet from any side lot line.
  - (4) Church or other place of worship or Sunday school, provided that any such building shall be located not less than twenty-five (25) feet from any side lot line.
  - (5) Family day care homes.
  - (6) Public school, kindergarten, elementary and high or private school having a curriculum the same as ordinarily given in a public school, provided that any such building shall be located not less than twenty-five (25) feet from any side of lot line.
  - (7) Truck gardening, nursery and/or horticulture.
- (c) **Conditional Uses.** A building or premise shall be used only for the following purposes when approved as a conditional use:
  - (1) Dental and medical clinics.
  - (2) Private lodges and clubs.
  - (3) Nursing and rest homes and homes for the aged.
  - (4) Public utility offices and installations including transmission lines and substations.
  - (5) Institutions of a religious, educational, charitable or philanthropic nature.
  - (6) Single-family dwellings.

- (d) **Area, Weight and Yard Requirements.**
  - (1) **Lot Area.**
    - a. Minimum Area.
      - 1. One family: Seven thousand five hundred (7,500) square feet.
      - 2. Two Family: Six thousand (6,000) square feet per unit.
    - b. Minimum Width. Seventy (70) feet.
  - (2) **Yard (Building Setbacks).**
    - a. Street: Twenty-five (25) feet.
    - b. Side: Nine (9) feet.
    - c. Rear: Twenty-five (25) feet.
  - (3) **Building Height.** Maximum Permitted-Principal Structure: Thirty-five (35) feet.

### **Section 13.1.35 R-4 Multiple-Family Residential District.**

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of multiple-family dwelling units at varying dwelling units per acre densities.
- (b) **Permitted Uses.**
  - (1) Two-family dwellings (duplex).
  - (2) Multiple-family dwellings.
- (c) **Conditional Uses.**
  - (1) Parks and playgrounds.
  - (2) Professional home offices.
  - (3) Planned residential developments.
  - (4) Golf courses and private clubs.
  - (5) Sewage disposal facilities.
  - (6) Utilities.
  - (7) Schools and churches.
  - (8) Government, cultural, and public uses such as fire and police stations, community centers, libraries, public emergency shelters and museums.
  - (9) Home occupations.
  - (10) Nursery schools.
  - (11) Retirement homes.
  - (12) Mobile home parks.
- (d) **Area, Height and Yard Requirements.**
  - (1) **Lot Area.**
    - a. Lot Area Per Family.
      - 1. Multi-Family Building. Three thousand six hundred (3,600) square feet.
      - 2. Two-Family Building. Six thousand (6,000) square feet.
    - b. Width: Minimum ninety (90) feet.
  - (2) **Building Height.** Maximum forty-five (45) feet.

- (3) **Yard (*Building Setbacks*).**
  - a. Street: Minimum twenty-five (25) feet.
  - b. Rear: Minimum twenty-five (25) feet.
  - c. Side: Minimum twenty (20) feet each side.
- (4) ***Building Dimensions.*** Minimum four hundred (400) square feet per family.

### **Section 13.1.36 R-5 Rural Development District.**

- (a) **Purpose.** The R-5 Rural Development District is intended to provide for farmette, rural estate single-family residential development, at densities not to exceed one (1) dwelling unit per gross five (5) or more acres.
- (b) **Permitted Uses.** The following uses are permitted in the R-5 District:
  - (1) Single-family detached dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
  - (2) Manufactured homes complying with all of the following requirements and limitations:
    - a. The home shall be at least twenty-four (24) feet in width and thirty-six (36) feet in length.
    - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. There shall be no wheels and axles permitted. The enclosed foundation system shall be approved by the Building Inspector and/or City Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
    - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
    - d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
    - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the City of Hillsboro.
  - (3) Community living arrangements which have a capacity for eight (8) or fewer persons subject to the limitations set forth in Sec. 62.23(7)(i), Wis. Stats.
  - (4) Essential services.
  - (5) Home occupations and professional home offices complying with Section 13.1.63.
- (c) **Conditional Uses.**
  - (1) Utility substations.
  - (2) Community living arrangements which have a capacity for nine (9) or more persons.

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

(1) ***Lot.***

- a. Area: Lots shall be a minimum of five (5) acres in area and shall be not less than one hundred twenty-five (125) feet in width at front setback.
- b. Height: No building or parts of a building shall exceed thirty-five (35) feet in height.
- c. Building Area:
  1. The total floor area of a dwelling shall be not less than one thousand six hundred (1,600) square feet.
  2. Building coverage on the lot shall not exceed thirty-five percent (35%) of the total lot area.

(2) ***Yard (Building Setbacks).***

- a. Street: There shall be a minimum building setback of thirty-five (35) feet from the street right-of-way.
- b. Side: There shall be a side yard on each side of all buildings not less than twenty (20) feet in width.
- c. Rear: There shall be a rear yard of not less than fifty (50) feet.

(e) **Other Development Standards.**

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

- a. Minimum roadway design standards:
  1. Twenty-two (22) feet blacktop pavement width per City standards.
  2. Sixty-six (66) foot right-of-way.
  3. One hundred thirty-two (132) feet cul-de-sac bulb right-of-way.
- b. Where rural cross sections are used, the developer shall submit and the Common Council shall approve detailed grading plans for the swale network. The swale system shall be installed at time of street work and shall be designed as a component of the storm water management plan.
- c. A culvert installation permit and detailed lot grading permit shall be granted by the Building Inspector prior to any disturbance of the site associated with grading, excavation or culvert installation. The developer shall secure a performance bond or deposit of Nine Hundred Dollars (\$900.00) plus twenty-five percent (25%) of the total cost to ensure appropriate culvert installation and shall pay an administrative and inspection fee of an amount set by the City Council prior to the grading of a culvert installation permit.

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

- (3) Residences in the R-5 District may be served by private sewer and water facilities.

### **Section 13.1.37 CON Conservancy District.**

- (a) **Purpose.** The purpose of this District is to preserve, protect, and maintain the natural environment and character of areas exhibiting significant natural resource features which contribute to the productive, recreational, or aesthetic value of the community.
- (b) **Permitted Uses.**
  - (1) Forest and game management; wildlife preserves.
  - (2) Hunting, fishing and hiking.
  - (3) Parks and recreation areas; arboreta; botanical gardens; greenways.
  - (4) Stables.
  - (5) Utilities.
  - (6) Non-residential buildings used solely in conjunction with the raising of water, fowl or fish.
  - (7) Harvesting, of wild crops.
  - (8) Recreation related structures not requiring basements.
  - (9) Preservation of scenic, historic, and scientific areas.
  - (10) Public fish hatcheries.
  - (11) Soil and water conservation.
  - (12) Sustained yield forestry.
- (c) **Conditional Uses.**
  - (1) Animal hospitals, shelters and kennels.
  - (2) Archery and firearm ranges, sports fields and skating rinks.
  - (3) Land restoration, flowage, ponds.
  - (4) Golf courses and clubs.
  - (5) Ski hills and trails.
  - (6) Yacht clubs and marinas.
  - (7) Recreation camps.
  - (8) Public and private campgrounds.
  - (9) Riding stables.
  - (10) Sewage disposal plants.
  - (11) Governmental, cultural and public buildings or uses.
  - (12) Utilities.
  - (13) Hunting and fishing clubs.
  - (14) Farm structures.
  - (15) Grazing.
- (d) **Area, Height and yard Requirements.**
  - (1) **Lot.**
    - a. Area: Minimum one and one-half (1-1/2) acres.

- b. Width: Minimum one hundred fifty (150) feet.
- (2) **Building Height.** Maximum thirty-five (35) feet.
- (3) **Other Structures Height.** Maximum one-half (1/2) the distance from the structures nearest lot line.
- (4) **Yard (Building Setbacks).**
  - a. Street: Minimum twenty (20) feet.
  - b. Rear: Minimum twenty (20) feet.
  - c. Side: Minimum twenty (20) feet except structures used for the housing of shelters of animals must be one hundred (100) feet from lot lines.

### **Section 13.1.38 C-1 General Commercial District.**

- (a) **Purpose.** The C-1 District is intended to provide an area for the business, financial, professional, and commercial needs of the community, especially those which can be most suitably located in a compact, centrally located traditional business district. In addition, the district is intended to offer a vibrant gathering place for visitors and City residents. The desired character of the district includes buildings close to and oriented toward the sidewalk. Development is intended to be pedestrian oriented in a regional market type area.
- (b) **Permitted Uses.** The following uses of land are permitted in the C-1 District:
  - (1) Paint, glass and wallpaper stores.
  - (2) Hardware stores.
  - (3) Department stores, variety stores, general merchandise stores.
  - (4) General grocery stores, supermarkets, fruit and vegetable stores, delicatessens, meat and fish stores and miscellaneous food stores.
  - (5) Candy, nut or confectionery stores.
  - (6) Dairy products stores, including ice cream stores.
  - (7) Retail bakeries, including those which produce some or all of the products sold on the premises, but not including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery.
  - (8) Clothing and shoe stores.
  - (9) Furniture, home furnishings, floor covering and upholstery shops/stores.
  - (10) Restaurants, lunch rooms and other eating places, except drive-in type establishments.
  - .
  - (11) Drug stores and pharmacies.
  - (12) Antique stores .
  - (13) Sporting goods stores and bicycle shops.
  - (14) Bookstores, not including adult books.
  - (15) Stationery stores.

- (16) Jewelry and clock stores.
- (17) Camera and photographic supply stores.
- (18) Gift, novelty and souvenir shops.
- (19) Florist shops.
  
- (20) News dealers and newsstands.
- (21) Wholesale merchandise establishments, only for retail items listed above; e.g., #17 would allow wholesale camera sales.
- (22) Banks and other financial institutions.
- (23) Offices of insurance companies, agents, brokers and service representatives.
- (24) Offices of real estate agents, brokers, managers and title companies.
- (25) Miscellaneous business offices.
- (26) Heating and plumbing supplies.
- (27) Retail laundry and dry cleaning outlets, including coin-operated laundries and dry cleaning establishments, commonly called laundromats and laundrettes. Tailor shops, dressmakers' shops, and garment repair shops, but not garment pressing establishments, hand laundries, or hat cleaning and blocking establishments.
- (28) Photographic studios and commercial photography establishments.
- (29) Barbershops, beauty shops and hairdressers.
- (30) Shoe repair shops and shoe shine parlors.
- (31) Trade and contractor's offices (office only).
- (32) Advertising agencies, consumer credit reporting, news agencies, employment agencies.
- (33) Duplicating, blueprinting, photocopying, addressing, mailing, mailing list and stenographic services; small print shops.
- (34) Computer services.
- (35) Commercial parking lots, parking garages, parking structures.
- (36) Watch, clock and jewelry repair services.
- (37) Motion picture theaters, not including drive-in theaters or adult oriented theatres.
- (38) Miscellaneous retail stores.
- (39) Offices/clinics of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, optometrists and chiropractors, and veterinarian's offices.
- (40) physicians, optometrists and chiropractors, but not veterinarian's offices.
- (41) Law offices.
- (42) The offices, meeting places, churches, and premises of professional membership associations; civic, social, and fraternal associations; business associations, labor unions and similar labor organizations; political organizations; religious organizations; charitable organizations; or other non-profit membership organizations.
- (43) Engineering and architectural firms or consultants.
- (44) Accounting, auditing and bookkeeping firms or services.



- (45) Professional, scientific, or educational firms, agencies, offices, or services, but not research laboratories or manufacturing operations.
  - (46) The offices of governmental agencies and post offices.
  - (47) Public transportation passenger stations, taxicab company offices, taxicab stands, but not vehicle storage lots or garages.
  - (48) Telephone and telegraph offices.
  - (49) Signs in accord with Title 13, Chapter 1, Article G, and all other applicable sections contained in the Code of Ordinances.
- (c) **Conditional Uses.** The following are permitted as conditional uses in the C-1 District; provided that no nuisance shall be afforded to the public through noise, the discharge of exhaust gases from motor-driven equipment, unpleasant odors, smoke, steam, harmful vapors, obnoxious materials, unsightly conditions, obstruction of passage on the public street or sidewalk, or other conditions generally regarded as nuisances; and provided that where operations necessary or incident to the proper performance of these services or occupations would tend to afford such nuisances, areas, facilities, barriers, or other devices shall be provided in such a manner that the public is effectively protected from any and all such nuisances. These uses shall be subject to the consideration of the Common Council with regard to such matters.
- (1) Miscellaneous repair shops and related services.
  - (2) Garment pressing establishments, hand laundries, hat cleaning and blocking shops and coin-operated dry cleaning establishments.
  - (3) Establishments engaged in the publishing and printing of newspapers, periodicals or books.
  - (4) Residential units located on the ground level and/or second story of a commercial structure, provided proper living area, sanitary facilities and adequate means of ingress/egress exist; the Common Council may impose appropriate requirements and/or limitations on such residential commercial uses.
  - (5) Farm supplies, wholesale trade.
  - (6) Establishments engaged in the retail sale of automobiles, trailers, mobile homes, or campers.
  - (7) Stores for the sale and installation of tires, batteries, mufflers or other automotive accessories.
  - (8) Gasoline service stations; provided, further, that all gasoline pumps, storage tanks and accessory equipment must be located at least thirty (30) feet from any existing or officially proposed street line.
  - (9) Establishments engaged in the daily or extended-term rental or leasing of house trailers, mobile homes or campers.
  - (10) Establishments engaged in daily or extended-term rental or leasing of passenger automobiles, limousines or trucks, without drivers, or of truck trailers or utility trailers.
  - (11) Establishments for the washing, cleaning or polishing of automobiles, including self service car washes.
  - (12) Hotels, motor hotels, motels, tourist courts, tourist rooms, etc.

- (13) Tattoo Parlor and body piercing establishments with appropriate license and permit.
  - (14) Taverns, bars and other drinking establishments with permit by Common Council.
  - (15) Resale shops and secondhand stores.
  - (16) Meat processing plants and similar type establishments.
  - (17) Pawn shops.
  - (18) Establishments engaged in the sale of firearms, fireworks or weapons of any kind.
  - (19) Short term loan facilities that provide loans in exchange for collateral
  - (20) Coin operated facilities of any kind.
  - (21) Establishments that charge a fee for cashing checks or exchanging currency or financial instruments (other than the exchange of foreign for domestic currencies, or the sale of travelers checks, or the assessment of fees and service charges by chartered banks, savings and loans and credit unions).
  - (22) Any adult oriented business.
  - (23) Liquor Stores.
  - (24) Tobacco and smokers' supplies stores.
- (d) **Lot, Yard and Building Requirements.**
- (1) **Lot Frontage.** No minimum.
  - (2) **Lot Area.** No minimum in older, pre-existing downtown areas; minimum seventy-five (75) feet for new structures.
  - (3) **Principal Building Setbacks.**
    - a. Front Yard: Minimum fifteen (15) feet.\*
    - b. Side Yard: Minimum nine (9) feet.\*
    - c. Rear Yard: Minimum twenty-five (25) feet.\*
  - (4) **Building Height.** Maximum sixty (60) feet.\*
  - (5) **Alley Setback.** Minimum fifteen (15) feet.
- (e) **Design Requirements.** Any new or existing business that wishes to alter the general design, architecture, or façade of an existing building in the downtown business district (as defined below), or construct a new building, must submit a plan which conforms to the City of Hillsboro Downtown Business District Design Standards. A copy of the design standards may be picked up at City Hall or reviewed on the City's official website.
- (f) **Lighting.**
- (1) All building entrances and exits must be well lighted.
  - (2) Exterior lighting must be an integral part of the architectural design, complement the existing ornamental street lighting, and be in keeping with the overall architectural character of the building and district.
  - (3) The minimum lighting level for building entries is four foot candles. Lighting must be on a pedestrian scale and shielded to reduce glare.
  - (4) Unapproved lighting sources shall include, but not be limited to, mercury, vapor, unshielded fluorescent, neon, or tube gas lighting.
  - (5) For buildings with light signs that contribute to the exterior lighting of the building and / or district, the entire sign must be operational and all bulbs must be

fully functional at all times. There shall be no lighting sources that flash, flicker, blink or produce any other similar effects.

- (g) Sidewalk Displays, Streetscapes and Signs.
  - (1) Signs must be architecturally compatible with the style, composition, materials, colors and details of the building.
  - (2) There shall be no handwritten signs affixed to the buildings within the district.
  - (3) Temporary computer generated signs on standard / legal size paper detailing community events are permitted for a limited time of two (2) weeks prior to, and two (2) days following the event. Signs of this type are also permitted to advertise for special sales events, but for a time period not to exceed two (2) weeks in total duration for a season without approval from the Zoning Administrator.
  - (4) Building signs must reference the bona fide business operating in the building in which the sign is affixed and shall not be used to advertise for an off-site business or location.
  - (5) Temporary approved signs may be placed only inside the window, door, or doorway of the building, which the temporary sign is advertising for, and may not be placed on the awning, brick, wall or any exterior feature of the building.
  - (6) Detached signs, sandwich board signs and other movable signs, and other compatible streetscape items may be placed temporarily within the public right-of-way, but must not violate any section or subsection of the Code of Ordinances, nor block the free movement of pedestrians. For the purposes of this section, temporarily shall mean a period of time which is reasonable to conduct advertising for a seasonal-type product or other temporary item, but in no case to exceed three (3) months without approval of the Plan Commission or Zoning Administrator.
  - (7) Benches, outdoor seating, and trash or other type of receptacles must be kept in accord with the overall character of the building and district (See Hillsboro Downtown Business District Design Standards).
- (h) **Standards – Conditional Uses.** No application for a conditional use shall be granted by the Plan Commission or Common Council unless the following conditions are present and any necessary findings are made under state law and the Zoning Code.
  - (1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
  - (2) The uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent properties and businesses.
  - (3) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  - (4) Adequate utilities and other necessary site improvements have been or are being provided.

- (5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) The conditional use shall conform to all other applicable regulations of the Zoning Code.
- (i) **Downtown Business District – Defined.** For the purposes of 13.1.38(e), the Downtown Business District shall be defined as those properties along Water Avenue from East Madison to Spring Street, excluding the easternmost properties zoned multi-family residential. The District shall also include properties along Mill Street, from Water Avenue to South High Street.

\* In the blocks in the C-1 District which are already developed, setbacks, minimum lot widths, parking and truck unloading areas for new or renovated buildings can correspond with the existing setbacks, minimum lot widths, parking and truck unloading areas, provided the Zoning Administrator determines such action will be in keeping with the purposes of the Zoning Code.

## **Section 13.1.39 C-2 Highway Commercial District.**

- (a) **Purpose.** The purpose of this District is to encourage the growth and development of business activities and establishments which require highway frontage and exposure due to their automobile and vehicular orientations.
- (b) **Permitted Uses.**
  - (1) Governmental and public buildings.
  - (2) Cultural Buildings and Museums.
- (c) **Conditional Uses.** The following are specific conditional uses in this Chapter:
  - (1) Amusement activities.
  - (2) Automobile and truck sales and services; non-salvage automotive parts stores.
  - (3) Automobile repair services.
  - (4) Bars and taverns.
  - (5) Candy, nut and confectionery sales.
  - (6) Gasoline service stations; convenience stores.
  - (7) Gift, novelty and souvenir sales.
  - (8) Hotels, motels and tourist courts.
  - (9) Night clubs and dance halls.
  - (10) Restaurants.
  - (11) Sales, service and installation of tires, batteries and accessories.
  - (12) Residential dwelling units.
  - (13) Animal hospital, shelters and kennels.
  - (14) Hospitals and health care clinics.
  - (15) Public assembly uses.
  - (16) Commercial recreation facilities.
  - (17) Off-season storage facilities.
  - (18) Lodges and fraternal buildings.

- (19) Nursing homes.
  - (20) Nursery and day care centers.
  - (21) Retirement homes.
  - (22) Drive-in food and beverage establishments, for consumption on or off-premises.
  - (23) Drive-banks.
  - (24) Drive-in theaters.
  - (25) Vehicle sales and service.
  - (26) Public parking lots.
  - (27) Golf courses.
  - (28) Sewage disposal plants.
  - (29) .
  - (30) Utilities.
  - (31) Schools and churches.
  - (32) Mobile home sales.
  - (33) Mental health care facilities, including counseling centers.
  - (34) Chiropractic clinics.
  - (35) Professionally supervised juvenile detention centers.
  - (36) Lawn and garden equipment sales.
  - (37) Recreational vehicle sales.
  - (38) Other retail establishments not specifically listed.
  - (39) Bait and tackle stores.
- (d) **Area, Height and Yard Requirements.**
- (1) ***Lot.***
    - a. Area: No minimum.
    - b. Width: Minimum seventy-five (75) feet.
  - (2) ***Building Height.*** Maximum fifty (50) feet.
  - (3) ***Yard (Building Setbacks).***
    - a. Street: Minimum fifty (50) feet if front parking is permitted; minimum twentyfive (25) feet if no front parking is used.
    - b. Rear: Minimum twenty (20) feet.
    - c. Side: Minimum twenty (20) feet.

### **Section 13.1.40 I-1 Industrial/Commercial District.**

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

- (b) **Permitted Uses.** No uses are permitted as a matter of right within the I-1 District. All uses within this District are conditional, requiring a public hearing and consideration of specific site factors and impacts on surrounding land uses. All conditional uses must be approved in accordance with the procedures established in Article D.
- (c) **Conditional Uses.** The following are examples of conditional uses within the I-1 District. Such use shall be subject to the consideration of the Common Council and Plan Commission with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors:
  - (1) Manufacturing establishments, usually described as factories, mills or plants, in which raw materials are transformed into finished products, and establishments engaged in assembling component parts of manufactured products.
  - (2) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.
  - (3) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening.
  - (4) Railroads, including rights-of-way, railroad yards, and structures normally incident to the operation of railroads, including station houses, platforms, and signal towers, but not including warehouses owned by companies other than railroad companies or road terminal companies.
  - (5) Wholesale establishments and warehouses.
  - (6) Building construction contractors.
  - (7) Highway passenger and motor freight transportation.
  - (8) Light Industry and Service Uses.
    - a. Automotive body repair.
    - b. Automotive upholstery.
    - c. Cleaning, pressing, dyeing.
    - d. Commercial bakeries (retail or wholesale).
    - e. Commercial greenhouses (retail or wholesale).
    - f. Distributors.
    - g. Food locker plants.
    - h. Printing and publishing.
    - i. Trade and contractor's facilities.
    - j. Offices.
    - k. Painting services.
    - l. Retail sales and service facilities such as retail and surplus outlet stores, and restaurants and food service facilities when established in conjunction with a permitted manufacturing or processing facility.
    - m. Recreation vehicle, boat and miscellaneous storage.
  - (9) Public Facilities and Uses.

- a. Governmental, cultural and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
  - b. Schools and churches.
  - c. Airports, airstrips and landing fields.
- (10) Agriculture Related Industry and Service Uses.
- a. Production of natural and processed cheese.
  - b. Production of shortening, table oils, margarine and other edible fats and oils.
  - c. Production of condensed and evaporated milk.
  - d. Wet milling of corn.
  - e. Production of creamery butter.
  - f. Drying and dehydrating fruits and vegetables.
  - g. Preparation of feeds for animal and fowl.
  - h. Pea venteries.
  - i. Creameries.
  - j. Production of flour and other grain mill products; blending and preparing of flour.
  - k. Fluid milk processing.
    - l. Production of frozen fruits, fruit juices, vegetables and other specialties.
  - m. Fruit and vegetable sauces and seasoning, and salad dressing preparation.
  - n. Poultry and small game dressing and packing, providing that all operations be conducted within an enclosed building.
  - o. Production of sausages and other meat products providing that all
  - p. Corn shelling, hay baling and threshing services.
  - q. Grist mill services.
  - r. Horticultural services.
  - s. Canning of fruits, vegetables, preserves, jams and jellies.
  - t. Canning of specialty foods.
  - u. Grain elevators and bulk storage of feed grains.
  - v. Fertilizer production, sales, storage, mixing and blending.
  - w. Sales or maintenance of farm implements and related equipment.
  - x. Animal hospitals, shelters and kennels.
  - y. Veterinarian services.
- (11) Outside storage and manufacturing areas, wrecking, junk, demolition and scrap yards, providing that they shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way, shall be at least six hundred (600) feet from residential or commercial structures, and shall be neatly maintained in such a manner so as to not constitute a nuisance or be detrimental to area property owners.
- (12) Miscellaneous Uses.
- a. Automotive parts stores.
  - b. Lawn and garden sales.
  - c. Recreational vehicle sales.

- d. Home appliance sales.
  - e. Bait and tackle stores.
  - f. Variety department stores.
  - g. Restaurants.
  - h. Dance halls.
  - i. Automobile fuel and service stations.
- (d) **Lot, Yard and Building Setback Requirements.**
- (1) **Lot Frontage.** Minimum one hundred (100) feet.
  - (2) **Lot Area.** Minimum eight thousand five hundred (8,500) square feet.
  - (3) **Front Yard.** Minimum twenty-five (25) feet.
  - (4) **Side Yards.** Minimum ten (10) feet.\*
  - (5) **Rear Yard.** Minimum thirty (30) feet.\*
  - (6) **Building Height.** Maximum seventy-five (75) feet.
  - (7) **Percentage of Lot Coverage.** Maximum seventy percent (70%).

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

### **Section 13.1.41 L-1 Light Industrial / Institutional District.**

- (a) **Statement of Purpose.** The L-1 Light Industrial / Institutional District is intended to provide for light manufacturing and institutional uses separated from other sections of the City. It is to provide an aesthetically attractive working environment exclusively for and conducive to the development and protection of offices, certain specialized manufacturing operations, and research and development institutions. The essential purpose of this district is to achieve development which is practical, feasible and economical and an asset to the owners, neighbors and the City, and to promote and maintain desirable economic development activities in a park-like setting.
- (b) **General Regulation.** Uses permitted in the L-1 District are subject to the following conditions:



- (1) No use shall be so conducted as to cause the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere. All uses shall be conducted in such a manner so as to preclude any nuisance, hazard, or commonly recognized offensive conditions or characteristics, including excessive creation or emission of dust, gas, smoke, noise, fumes, odors, vibrations, particulate matter, chemical compounds, electrical disturbance, humidity, heat, cold, glare, or night illumination. Prior to issuance of a zoning certificate or occupancy certificate, the City may require evidence that adequate controls, measures, or devices have been provided to ensure and protect the public interest, health, comfort, convenience, safety, and general welfare from such nuisance, hazard, or offensive condition.
  - (2) All business, servicing or processing, except off-street parking and off-street loading, and outside storage areas as regulated hereinafter, shall be conducted within completely enclosed buildings.
  - (3) The building coverage on any zoning lot shall not exceed seventy percent (70%).
  - (4) Parking of trucks as an accessory use, when used in the conduct of a permitted business use, shall be limited to vehicles of not over one and one-half (1.5) ton capacity when located within one hundred fifty (150) feet of a residence district boundary line.
  - (5) All open off-street parking areas, loading areas, and driveways shall be surfaced with a dustless all-weather material capable of carrying a wheel load of four thousand pounds [normally a two (2) inch blacktop and a four (4) inch base or five (5) inches of portland cement will meet this requirement].
  - (6) No land shall be rezoned to this District and developed and no use shall be permitted that results in flooding, erosion or sedimentation to adjacent properties. All runoff shall be properly channeled into a storm drain, watercourse, storage area or other stormwater management facility.
- (c) **Permitted Use.** The following uses are permitted in the L-1 District:
- (1) ***Manufacturing Uses.***
    - a. Commercial printing.
    - b. Service industries for the printing trade.
    - c. Biological products, medical chemicals, and pharmaceutical preparations.
    - d. Industrial organic chemicals.
    - e. Optical glass and fiber opticals.
    - f. Miscellaneous fabricated metal products.
    - g. Office, computing and accounting machines.
    - h. Communication equipment.
    - i. Electronic components and accessories.
    - j. Miscellaneous electrical machinery, equipment, and supplies.
    - k. Measuring, analyzing, and controlling instruments.

- l. Small-scale products [finished weight not exceeding fifty (50) pounds] related to the resource industries of agriculture and food production, forestry, petrochemicals, and mining.
  - m. Specific products not listed above but similar in intent and character and which may be defined as being produced or assembled manually or by a light industrial process by virtue of the use of only light machinery, being conducted entirely within enclosed substantially constructed buildings in which the open area around such buildings is not used for storage of raw materials or manufactured products, or for any industrial purpose other than loading and unloading operations, and which are not noxious or offensive by reason of emission of smoke, dust, fumes, odors, noise, or vibrations beyond the confines of the building.
- (2) ***Service or Institutional Uses.***
- a. Computer and data processing services.
  - b. Miscellaneous business services, including laboratories.
  - c. Offices, business and professional.
  - d. Communication services.
  - e. Institutional homes for the elderly
  - f. Nursing homes
  - g. Funeral homes.
  - h. Licensed day care centers.
  - i. Dental and medical clinics.
- (3) ***Accessory Uses, including, But Not Limited to the Following:***
- a. Educational or training centers or institutions.
  - b. Nursery schools or day care centers for children of employees on the site.
  - c. Restaurants or structurally integrated lodging facilities, which are open to persons employed on the site and to business visitors, guests and retail customers.
- (d) **Conditional Uses.** The following uses may be allowed as conditional uses pursuant to Article D:
- (1) Local and suburban transit.
  - (2) Taxicabs.
  - (3) Public utilities and public services.
  - (4) Conference centers and hotel facilities.
  - (5) Other proposed commercial and industrial uses.
- (e) **Lot Area and Height Regulations.** In the L-1 District, the following lot area and height requirements shall apply:
- (1) The minimum lot area shall be thirty-three thousand (33,000) square feet in size.
  - (2) The maximum building height as a permitted use shall be thirty-five (35) feet; any person desiring to erect a structure taller than thirty-five (35) feet may apply for a greater height on a conditional use basis under Article D.
- (f) **Yard Requirements.** In the L-1 District minimum yardage shall be provided as follows:
- (1) The minimum lot width shall be one hundred fifty (150) feet.

- (2) The minimum front yard setback shall be twenty-five (25) feet.
  - (3) The minimum side yard setback shall be fifteen (15) feet or twenty (20) feet in the side yard on a corner lot.
  - (4) The minimum rear setback shall be thirty (30) feet.
- (g) **Design Standards.** In the L-1 District, the following design standards shall apply, provided any requirement may be reduced or waived when approved by the Common Council:
- (1) ***Accessory Off-Street Parking and Loading.***
    - a. Accessory off-street parking lots and loading berths and access driveways shall be located, designed and improved so as to provide for safe and convenient access from adjoining streets, as well as safe and convenient circulation within the site.
    - b. Access driveways and parking lots shall be separated from principal pedestrian walkways and recreational areas, fences or other appropriate materials to ensure pedestrian safety.
    - c. Off-street parking lots shall not be located in required front yards or street side yards on corner lots but may be located in required rear yards to the rear of the building or in an interior side yard beyond the larger of the required front yard or the actual front setback.
    - d. A guest parking lot containing not more than ten (10) parking spaces may be located to the front or side of a building but not in the required front yard or in the required street side yard on a corner lot.
    - e. Any parking lot located in a required side or rear yard shall be located not less than twenty (20) feet from any other lot in a residence district.
    - f. Access driveways shall be designed and located so that such driveways do not expose an unlandscaped view from the street to the loading berths or storage areas.
    - g. A plan for tree islands and parking lot landscaping shall be included with the landscape plan required in Subsection (g)(3) hereafter.
  - (2) ***Landscaping and Site Development.*** To provide a park-like setting, all lots shall be landscaped, including the provision of canopy-type shade trees. Where possible, all existing mature, healthy trees shall be retained. All land areas not covered by buildings, structure, storage areas, parking lots, loading areas and driveways shall be landscaped and maintained. Landscaping shall mean decorative plazas, mounds, pools or the planting of grass, shrubs, trees, or other plant materials or other comparable surface cover. To comply with the above provisions, a landscape plan shall be submitted and approved by the Common Council prior to construction.
  - (3) ***Storage Areas.*** All storage, except for licensed motor vehicles in operable condition shall be within completely enclosed buildings or effectively screened with screening not less than six (6) feet nor more than eight (8) feet in height, and no storage shall exceed the height of such screening. Wire fence is not acceptable

for this purpose. All outside storage areas shall be located to the rear of buildings and shall be limited to not more than ten percent (10%) of the total lot area.

- (4) **Illumination.** Electrical reflectors, spotlights, floodlights, and other sources of illumination may be used to illuminate buildings, landscaping, signs, and parking and loading areas on any site, but only if they are equipped with lenses or other devices which concentrate the illumination upon such buildings, landscaping, signs, and parking and loading areas. All lighting shall be reflected away from residences and public streets.
- (5) **Signage.** A scale drawing of any sign, trademark or advertising device to be used on any lot or the exterior of any building or structure will be submitted to the Common Council for approval. Normally, the occupant's trademark and/or trade name may be displayed on the building in the manner in which they are generally used by the occupant. No signs other than company, product identification and directional signs are permitted. The type, location, and placement of signs shall be approved by the Common Council.
- (6) **Buildings.**
  - a. The front of all buildings, that is, the side facing the street on which the building is deemed to front, shall be faced with concrete or brick masonry, stone, or other material approved by the Common Council, and said facing shall extend across the full front of the building and also extend a distance of not less than twenty (20) feet on each side of the front of the building. That portion of any building facing a street other than the street on which the building fronts shall be finished in an attractive manner in keeping with the accepted standards used for industrial buildings, but need not be finished in a like manner as that portion of the building referred to as the front. It is the intent of these provisions that all structures shall be designed and constructed in such a manner as to provide an aesthetically pleasing and harmonious overall development of the Industrial/ Commercial Park. This Subsection may be waived or modified by action of the Common Council.
  - b. Except as otherwise provided herein, the sides and rear of all buildings shall be finished in an attractive manner in keeping with the accepted standards used for industrial buildings subject to the approval of the Common Council. All faces of all buildings must be kept in good repair and appearance at all times. All buildings must be of approved construction in conformity with all applicable building codes. Buildings shall not exceed thirty-five (35) feet in height.
  - c. All electrical and air conditioning structures, including towers and air handling units, regardless of location and whether on the roof or otherwise, shall be concealed by landscaping or by decorative screening materials which form an integral part of the design.
- (7) **Maintenance.**
  - a. Each property owner shall at all times keep his premises, buildings, improvements and appurtenances in a safe, clean, neat and sanitary condition

and shall keep all grass, trees, shrubbery in good appearance at all times and shall comply with all laws, ordinances and regulations pertaining to health and safety.

- b. During construction, it shall be the responsibility of each property owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials and that construction materials, trailers, shacks and the like are kept in a neat and orderly manner.
- (8) **Rubbish.** No rubbish may be burned on the premises within the District except in an incinerator especially constructed and designated for this operation and approved by the Common Council and the Wisconsin Department of Commerce and/or Department of Natural Resources. All outdoor refuse collection areas shall be visually screened from access streets, and adjacent property by a complete opaque screen.

### **Section 13.1.42 P-1 General Park District.**

- (a) **Purpose.** The purpose of this District is to provide for areas devoted to public recreational uses.
- (b) **Permitted Uses.** Public park and recreation uses.
- (c) **Conditional Uses.** No buildings or structures of any nature, temporary or permanent, shall be erected or placed in the district other than those owned or placed by the City of Hillsboro.
- (d) **Area, Height and Yard Requirements.** No minimums.

### **Section 13.1.43 PUD Planned Unit Development**

- (a) **Purpose.** The planned unit development (PUD) special use is established to provide a regulatory framework designed to encourage and promote improved environmental design in the city by allowing for greater freedom, imagination and flexibility in the development of land, while assuring substantial compliance to the basic intent of the zoning ordinance and the general plan for community development. To this intent it allows diversification and variation in the relationship of uses, structures, open spaces and heights of structures in developments, conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services and to encourage and facilitate preservation of open land.

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 Hillsboro. The details of this agreement constitute the zoning controls of the property. These controls have the same legal force and effect as do standard zoning requirements. To achieve the community benefits of PUD 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 sq. ft. are presumptively too small to be approved, but smaller projects may still be submitted and considered.

- (b) **Procedure:** General Implementation Plan (GIP). 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 City Administrator:
- (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, environmental and economic impacts on the community of the project, and positive relationships to the Land Use 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.
  - (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.
- (c) **Plan Commission Review.** Following determination by the City Administrator that an application is complete, the matter shall be placed on a Plan Commission agenda for initial review. Initial review is review of the project at the concept level and is not binding. The preferred procedure is for an iteration 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 to deny it.

- (d) **Criteria For Approval.** As a basis for determining the acceptability of a Planned Unit 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 Hillsboro Zoning Ordinance, the Hillsboro Land Use Plan, the Hillsboro 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 the 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 stormwater 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 Unit Development District. 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. PUD contracts shall contain specific reference to the ownership of such open space areas and to provision for maintenance.

- (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.
- (e) **Owners's Consent Following Common Council Approval.** If the Planned Unit Development District Ordinance as adopted by the Common Council provides explicitly, the area of the PUD 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 PUD 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 question and may not be conditioned or revocable by owners.
- (f) **Effect of PUD Plan Zoning.** 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.
  - (1) Rezoning to PUD 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. Extensions may be granted for cause by the Plan Commission.
- (g) **Filing: Effective Date.** When the consent signatures for lands in the parcel being rezoned are all acquired and turned in to the City Administrator, 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 date this occurs is the effective date of the rezoning. The map indication shall be PUD. The City shall record at the Vernon County Register of Deeds Office an affidavit of notice of PUD zoning against all real property included in the district. This shall be done on the effective date of the PUD rezoning. The City shall require the applicant to supply necessary property descriptions and to pay recording fees.
- (h) **Specific Implementation Plan (SIP).** After the effective date of the rezoning to PUD, 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 proponents of a PUD shall submit a reasonable schedule for the implementation of the plan to the satisfaction of the city including suitable provisions for assurance that each phase will be brought to completion in a manner which will not result in any adverse effect upon the community as a result of termination at that point.
  - (6) 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.
- (i) **Plan Commission Review.**
- (1) When the Specific Implementation Plan submission is deemed by the City Administrator to be complete, the matter shall be 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 Land Use 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 City Administrator as complete and, when found to be complete by said City Administrator, shall be placed on the agenda of the Common Council.
- (j) **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 City Council shall approve a Specific Implementation Plan that is reasonably consistent with the previously approved General Implementation Plan.

- (k) **Filing and Effective Date.** Signatures are required by property owners affected by the Specific Implementation Plan.
- (l) **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 PUD 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.
- (m) **Annual Review.** The Plan Commission shall review all planned unit developments within the City at least once a year and shall report to the City Council on the status of the development in each of the areas.
- (n) **Enforcement.** In the event the SIP is not being complied with, the City may seek to enjoin any further development or any specific relief available to the municipality, including but not limited to fines and forfeitures.

### **Section 13.1.44      A-1 Agricultural District.**

- (a) **Purpose.** The purpose of this District is to provide for areas primarily devoted to production agriculture.
- (b) **Permitted Uses.**
  - (1) Uses permitted in R-1 and R-2 Districts.
  - (2) Dairying.
  - (3) Floriculture.
  - (4) Forestry.
  - (5) General farming.
  - (6) Grazing.
  - (7) Greenhouses.
  - (8) Hatcheries.
  - (9) Horticulture.
  - (10) Livestock raising.
  - (11) Nurseries.
  - (12) Orchards.
  - (13) Paddocks.

- (14) Pasturage.
- (15) Poultry raising.
- (16) Stables.
- (17) Truck farming.
- (18) Viticulture.
- (c) **Conditional Uses.** None.
- (d) **Area, Height and Yard Requirements.**
  - (1) **Lot.**
    - a. Width: Minimum seventy (70) feet.
    - b. Area: Minimum seven thousand (7,000) feet.
  - (2) **Structure Area.** Minimum eight hundred (800) feet
  - (3) **Yard (Building Setbacks).**
    - a. Street: Minimum twenty-five (25) feet.
    - b. Rear: Minimum twenty-five (25) feet.
    - c. Side: Minimum twelve (12) feet.

### **Section 13.1.45 MW Municipal Well Recharge Area Overlay District (Wellhead Protection Area).**

- (a) **District Purpose.** The City recognizes that consequences of certain land use activities, whether intentional or accidental, can seriously impair groundwater quality. The purpose of the Municipal Well Recharge Area Overlay District (MW) is to protect municipal groundwater resources from certain land use activities by imposing appropriate restrictions upon lands located within the approximate groundwater recharge area of the City's municipal wells. The restrictions imposed herein are in addition to those of the underlying residential, commercial, or industrial zoning districts or any other provisions of the zoning ordinance.
- (b) **Overlay Zones.** The Municipal Well Recharge Area Overlay District is hereby divided into Zone A and Zone B as follows:
  - (1) **Zone A** is identified as the primary source of water for the municipal well aquifer and as the area most likely to transmit groundwater contaminants to the municipal wells. Zone A is more restrictive than Zone B.
  - (2) **Zone A Description:** S ½ of the NW ¼ of the SE ¼ and SW ¼ of the SE ¼ and S ½ of the SE ¼ of the SW ¼ of Section 26, and N ¼ of the NE ¼ of the NW ¼ of Section 35 Township 14 North Range 1 East.
  - (3) **Zone B** is identified as a secondary source of water for the municipal well aquifer and as an area where there is a lower probability of surface contaminants reaching the municipal well fields. Zone B is less restrictive than Zone A.
  - (4) **Zone B Description:** SE ¼ of the NE ¼ of the SW ¼ and S ½ of the NW ¼ of the SE ¼ and SW ¼, SE ¼ and SE ¼ of the SW ¼ and E ½ of the SW ¼ of the SW ¼

of Section 26, and N ½ of the NE ¼ of the NW ¼ and NE ¼ of the NW ¼ of the NW ¼ of Section 35 Township 14 North Range 1 East.

- (c) **Zone A Prohibited Uses.** The following land uses are hereby found to have a high potential to contaminate or have already caused groundwater contamination problems in Wisconsin and elsewhere. the following principal or accessory uses are hereby prohibited within Zone A of the Municipal Well Recharge Area Overlay Districts:
- (1) Areas for dumping or disposal of garbage, refuse, trash or demolition material.
  - (2) Asphalt products manufacturing plants.
  - (3) Automobile laundries.
  - (4) Automobile service stations.
  - (5) Building materials and products sales.
  - (6) Cartage and express facilities:
  - (7) Cemeteries.
  - (8) Chemical storage, sale, processing or manufacturing plants.
  - (9) Dry cleaning establishments.
  - (10) Electronic circuit assembly plants.
  - (11) Electroplating plants.
  - (12) Exterminating shops.
  - (13) Fertilizer manufacturing or storage plants.
  - (14) Foundries and forge plants.
  - (15) Garages-for repair and servicing of motor vehicles, including body repair, painting or engine rebuilding.
  - (16) Highway salt storage areas.
  - (17) Industrial liquid waste storage areas.
  - (18) Junk yards and auto graveyards.
  - (19) Metal reduction and refinement plants.
  - (20) Mining operations.
  - (21) Motor and machinery service and assembly shops.
  - (22) Motor freight terminals.
  - (23) Pain products manufacturing:
  - (24) Petroleum products storage or processing.
  - (25) Photography studios, including the developing of film and pictures.
  - (26) Plastics manufacturing.
  - (27) Printing and publishing establishments.
  - (28) Pulp and paper manufacturing.
  - (29) Residential dwelling units on lots less than fifteen thousand (15,000) square feet in area. However, in any residence district, on a lot of record on the effective date of this Section, a single family dwelling may be established regardless of the size of the lot, provided all other requirements of the City's Zoning Ordinance are complied with.
  - (30) Septage disposal sites.
  - (31) Sludge disposal sites.
  - (32) Storage, manufacturing or disposal of toxic or hazardous materials.

- (33) Underground petroleum products storage tanks for industrial, commercial, residential or other uses.
- (34) Woodworking and wood products manufacturing.
- (d) **Zoning A Conditional Uses.** The following conditional uses may be allowed in the Municipal Well Recharge Area Overlay District, subject to the provisions of Article D:
  - (1) Any other business or industrial uses not listed as a prohibited use.
  - (2) Animal waste storage areas and facilities.
  - (3) Center-pivot or other large scale irrigated agriculture operations.
- (e) **Zone B Prohibited Uses.** The following principal or accessory uses are hereby prohibited within Zone B of the Municipal Well Recharge Area Overlay District:
  - (1) Underground petroleum products storage tanks for industrial, commercial, residential or other uses.
- (f) **Zone B Conditional Uses.** The following conditional uses may be allowed in the Municipal Well Recharge Area Overlay District, subject to the provisions of Article D:
  - (1) Any business or industrial use.
- (g) **Separation Distances.** The following separation distances as specified in s. NR 811.12(5), Wis. Adm. Code, shall be maintained in all zones of the Groundwater Protection Overlay District.
  - (1) Fifty feet between a well field and a storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints.
  - (2) Two hundred feet between a well field and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one or two family residential heating fuel oil underground storage tank or above ground storage tank or private onsite wastewater treatment system (POWTS) treatment tank or holding tank component and associated piping.
  - (3) Three hundred feet between a well field and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it. These installations shall meet the most restrictive installation requirements of s. SPS 310.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. SPS 310.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
  - (4) Three hundred feet between a well field and any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the most restrictive installation requirements of s. SPS 310.260, Wis. Admin. Code, and

- receive written approval from the department of commerce or its designated Local Program Operator under s. SPS 310.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
- (5) Four hundred feet between a well field and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.
  - (6) Six hundred feet between a well field and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of s. SPS 310.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. SPS 310.110. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
  - (7) One thousand feet between a well field and land application of municipal, commercial, or industrial waste; the boundaries of a land spreading facility for spreading of petroleum-contaminated soil regulated under state administrative regulations while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment plant treatment units, lagoons, or storage structures; manure stacks or storage structures; or POWTS dispersal component with a design capacity of 12,000 gallons per day or more.
  - (8) Twelve hundred feet between a well field and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage tank or other single wall underground storage tank or above ground storage tank that has or has not received written approval from the department of safety and professional services or its designated Local Program Operator under s. SPS 310.110, Wis. Admin. Code, for a single wall tank installation. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances; and bulk pesticide or fertilizer handling or storage facilities.

**Section 13.1.46** Reserved for Future Use.

**Section 13.1.47** Reserved for Future Use.

**Section 13.1.48** Reserved for Future Use.

**Section 13.1.49** Reserved for Future Use.

**Section 13.1.50** Reserved for Future Use.

# **Title 13 - Chapter 1**

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## **Article D: Conditional Uses**

### **Section 13.1.51 Statement of Purpose-Conditional Uses.**

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

### **Section 13.1.52 Authority of the Zoning Administrator, Plan Commission and Common Council; Requirements.**

- (a) The Common Council, upon the recommendation of the Zoning Administrator, may require a recommendation on conditional use applications from the Zoning Administrator as a substitute to referring the application to the Plan Commission.
- (b) The Common Council hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearing, and approval from the Common Council, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such action, and the resulting conditional use permit, when, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Common Council shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (c) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the



- highway agency that has jurisdiction over the traffic way. The Plan Commission and Common Council shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
- (d) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Common Council upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.
  - (e) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

### **Section 13.1.53      Initiation of Conditional Use.**

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

### **Section 13.1.54      Application for Conditional Use.**

An application for a conditional use shall be filed on a form prescribed by the City. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13.1.57 hereinafter. The Common Council may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; highwater mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, deed restrictions, water supply systems and arrangements of operations.

### **Section 13.1.55 Hearing on Application.**

All requests for conditional uses shall be to the Common Council or the Common Council can, on its own motion, apply conditional uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Common Council on its own motion from referring the request for conditional use to the Plan Commission or Zoning Administrator for an advisory recommendation. Upon receipt of the application and statement referred to in Section 13.1.54 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Common Council. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Common Council shall, by rule, prescribe from time to time.

### **Section 13.1.56 Notice of Hearing on Application.**

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

### **Section 13.1.57 Standards-Conditional Uses.**

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

- (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
  - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
  - (6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
  - (7) That the proposed use does not violate flood plain regulations governing the site.
  - (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (b) **Application of Standards.** When applying the above standards to any new construction of a building or an addition to an existing building, the Common Council, Zoning Administrator, and Plan Commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- (c) **Additional Considerations.** In addition, in passing upon a Conditional Use Permit, the Common Council shall also evaluate the effect of the proposed use upon:
- (1) The maintenance of safe and healthful conditions.
  - (2) The prevention and control of water pollution including sedimentation.
  - (3) Existing topographic and drainage features and vegetative cover on the site.
  - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
  - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
  - (6) The location of the site with respect to existing or future access roads.
  - (7) The need of the proposed use for a shoreland location.
  - (8) Its compatibility with uses on adjacent land.
  - (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

### **Section 13.1.58 Denial of Application for Conditional Use Permit.**

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

## Section 13.1.59 Conditions and Guarantees.

The following conditions shall apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Zoning Administrator or Plan Commission may recommend and the Common Council may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13.1.57 above. In all cases in which conditional uses are granted, the City shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:
  - (1) Landscaping;
  - (2) Type of construction;
  - (3) Construction commencement and completion dates;
  - (4) Sureties;
  - (5) Lighting;
  - (6) Fencing;
  - (7) Operational control;
  - (8) Hours of operation;
  - (9) Traffic circulation;
  - (10) Deed restrictions;
  - (11) Access restrictions;
  - (12) Setbacks and yards;
  - (13) Type of shore cover;
  - (14) Specified sewage disposal and water supply systems;
  - (15) Planting screens;
  - (16) Piers and docks;
  - (17) Increased parking; or
  - (18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (b) **Site Review.** In making its recommendation, the Zoning Administrator or Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
- (c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Common Council, after recommendation from the Zoning Administrator or Plan Commission.
- (d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Common Council may require

the use of certain general types of exterior construction materials and/or architectural treatment.

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

### **Section 13.1.60      Validity of Conditional Use Permit.**

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

### **Section 13.1.61      Complaints Regarding Conditional Uses.**

The Common Council shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Common Council shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13.1.57 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13.1.56 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Common Council may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13.1.57 or conditions previously imposed by the Common Council, modify existing

conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13.1.57 will be met, the Common Council may revoke the subject conditional approval and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Common Council shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

### **Section 13.1.62 Bed and Breakfast Establishments.**

- (a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residence Districts pursuant to this Article.
- (b) **Definition.** "Bed and Breakfast Establishment" means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.
- (c) **State Standards.** Bed and breakfast establishments shall comply with the standards of Chapter HFS 197, Wis. Adm. Code.

### **Section 13.1.63 Home Occupations.**

- (a) **Intent.** The intent of this Section is to provide a means to accommodate a small family home-based business or professional home office as a conditional use without the necessity of a rezone into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.
- (b) **Restrictions on Home Occupations.** Except as provided in Subsection (c) below, home occupations are a conditional use in all Residential Districts and are subject to the requirements of the district in which the use is located, in addition to the following:
  - (1) The home occupation shall be conducted only within the enclosed area of the dwelling unit or an attached garage.
  - (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
  - (3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.

- (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
  - (5) There shall be no demand for parking beyond that which is normal to the neighborhood. In no case shall the home occupation cause more than two (2) additional vehicles to be parked on or near the premises.
  - (6) The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises. This shall not be interpreted to include delivery and/or pick-up services such as United Parcel Service, Federal Express, etc., in the conduct of their normal operations.
  - (7) No more than twenty-five percent (25%) of the gross floor area of the principal building shall be utilized by the home occupation.
  - (8) The home occupation is restricted to a service-oriented business; the manufacturing of items or products or the sale of items or products on the premises is prohibited.
  - (9) The types and number of equipment or machinery may be restricted by the Common Council.
  - (10) Activities which involve the manufacture, utilization, processing or storage of chemicals or inflammable and explosive material shall not be permitted.
  - (11) Under no circumstances shall a vehicle repair or body work business qualify as a home occupation.
  - (12) No more than one (1) non-resident employee may work on the home occupation premises.
- (c) **Permitted Use Exception.**
- (1) A home occupation under this Section may be maintained in any Residential District as a permitted use, as opposed to a conditional use, if the standards of Subsection (b) above are complied with, and no more than one (1) person works on the premises, no customers regularly come to the house, and the business is service-oriented and not engaged in retail trade. A conditional use permit shall be first obtained for home occupations that exceed the standards of Subsection (b). Sale or transfer of the property shall cause the Conditional Use Permit to be null and void.
  - (2) Persons engaged in building trades or similar fields, using their dwelling units or residential premises as an office for business activities carried on and off the premises, may have more employees than the limitations set forth in Subsection (b)(12) of this Section if they are not employed on the premises. If such employees regularly come to the premises to take work assignments, however, a conditional use permit shall first be obtained.
- (d) **Nameplate Sign Allowed.** Only one (1) nameplate sign shall be allowed. It may display the name of the occupant and/or the name of the home occupation. It shall not exceed two (2) square feet in area and shall be non-illuminated. The limitation of one (1) nameplate is intended to apply to all lots, including corner lots.

- (e) **Permitted Home Occupations.** Permitted home occupations include, but are not necessarily limited to, the following:
- (1) Artists or sculptors.
  - (2) Authors or composers.
  - (3) Home crafts such as model making, rug weaving and cabinet making.
  - (4) Office facility of a minister, rabbi, or priest.
  - (5) Office facility of an attorney, accountant, architect, professional engineer, surveyor, landscape architect, insurance agent or real estate agent.
  - (6) Private tutoring limited to three (3) pupils at any one time.
  - (7) Musical instruction limited to two (2) pupils at a time.
  - (8) Dressmaking.
  - (9) Mental Health Therapist.
  - (10) Personal Trainer.
- (f) **Home Occupations Permitted With Hearing.** The following uses, by the nature of the investment or extent of operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby could impair the use and value of a residentially zoned area for residence purposes. Therefore, the following home occupations are permitted only after issuance of a conditional use permit following a public hearing which include, but are not necessarily limited to, the following:
- (1) Barber shops and beauty parlors.
  - (2) Antique shops.
  - (3) Stables and kennels.
  - (4) Medical offices, including, but not necessarily limited to, physicians, surgeons, dentists, chiropractors, or optometrists for the general practice of the profession, except for consultation or emergency treatment.
  - (5) Automobile repair or paint shops.
  - (6) Restaurants and bakeries.
- (g) **Unlisted Home Occupations.** Any proposed home occupation that is neither specifically permitted by Subsection (b) or (e) nor specifically prohibited by Subsection (f) shall be considered a conditional use and be granted or denied by the Common Council upon consideration of those standards contained in Subsection (b) and Section 13.1.57 and in accordance with the procedures as required in Article D of this Chapter.



**Section 13.1.64** Reserved for Future Use.

**Section 13.1.65** Reserved for Future Use.

**Section 13.1.66** Reserved for Future Use.

**Section 13.1.67** Reserved for Future Use.

**Section 13.1.68** Reserved for Future Use.

**Section 13.1.69** Reserved for Future Use.

**Section 13.1.70** Reserved for Future Use.

## Title 13 - Chapter 1

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### Article E: Nonconforming Uses; Structures and Lots

#### Section 13.1.71 Existing Nonconforming Uses and Structures.

- (a) The lawful nonconforming use of a structure or land, including but not limited to fences, parking and zoning setbacks existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter. However, only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged; reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.
- (b) If no structural alterations are made, a nonconforming use of a building may be changed to any use permitted in the same use district as that in which the use existing is permitted according to the provisions of this Chapter; provided when a use district is changed, any existing, nonconforming use in such changed district may be continued or changed to a use permitted in the same use district as that in which the existing use is permitted; provided all other regulations governing the new use are complied with.
- (c) Substitution of new equipment may be permitted by the Board of Zoning Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

#### Section 13.1.72 Abolishment or Replacement.

- (a) **Termination.** If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this Chapter.
- (b) **Building Destroyed by Fire.** Where a building located in a district restricted against its use has been destroyed by fire or other calamity to the extent of not more than fifty percent (50%) of its assessed value, the same may be rebuilt; but where such a building is destroyed to the extent of more than fifty percent (50%) of its assessed value, a permit may be granted for its reconstruction within twelve (12) months from the date of such fire or other calamity, except any public utility located in a restricted district shall be

permitted to rebuild, alter or enlarge in any business or industrial district as the interest of the public demands.

### **Section 13.1.73 Existing Nonconforming Structures.**

The lawful nonconforming structure existing at the time of the adoption or amendment of this Chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Chapter. However, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.

### **Section 13.1.74 Changes and Substitutions.**

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Board of Zoning appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Zoning Appeals.

### **Section 13.1.75 Reduced Building Setbacks.**

In any residential district, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel, providing such lot or parcel was of record in the County Register of Deeds office before the original effective date or amendment of this Chapter. Such lot or parcel shall be in a separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Chapter. If in separate ownership, all the district requirements shall be complied with insofar as practical, but shall not be less than the following:

- (a) **Lot Size.**
  - (1) Width: Minimum forty (40) feet.
  - (2) Area: Minimum five thousand (5,000) square feet.
- (b) **Building.**
  - (1) Height: Maximum thirty (30) feet.
- (c) **Yard (Building Setbacks).**
  - (1) Street: Minimum twenty-five (25) feet; the second street yard on corner lots shall be not less than ten (10) feet.
  - (2) Rear: Minimum twenty (20) feet.

- (3) Side: Minimum sixteen percent (16%) of the frontage, but not less than five (5) feet each.

**Section 13.1.76** Reserved for Future Use.

**Section 13.1.77** Reserved for Future Use.

**Section 13.1.78** Reserved for Future Use.

**Section 13.1.79** Reserved for Future Use.

**Section 13.1.80** Reserved for Future Use.

# Title 13 - Chapter 1

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## Article F: Traffic Visibility, Loading, Parking and Access

### Section 13.1.81 Traffic Visibility.

- (a) On a corner lot in all zoning districts in the City of Hillsboro, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines twenty-five (25) feet from the point of intersection. Fences shall comply with the corner setback requirements of Section 13.1.133.
- (b) In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

### Section 13.1.82 Loading Requirements.

- (a) **Loading Space Requirements.** On every lot on which a new business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:

Use	Floor Area (sq. ft.)	Loading Space
Retail, wholesale	2,000 - 10,000	1
warehouse, service	10,000 - 20,000	2
manufacturing, and	20,000 - 40,000	3
industrial establishments	40,000 - 60,000	4
Each additional	50,000	1
Hotels, offices	5,000 - 10,000	1
hospitals, places of	10,000 - 50,000	2
public assembly	50,000 - 100,000	3
Each additional	25,000	1

Funeral homes	2,500 - 4,000	1
	4,000 - 6,000	2
Each additional	10,000	1

- (b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then offstreet loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- (c) **Location.** Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street.
- (d) **Design Standards.** Each off-street loading space shall have a width of at least twelve (12) feet, a length of at least forty-five (45) feet, and a vertical clearance of at least fourteen (14) feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to ten (10) feet in width, twenty-five (25) feet in length, and eight (8) feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect neighboring residences.
- (e) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than six (6) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.
- (f) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities.
- (g) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- (h) **Central Loading.** Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:
  - (1) Each zoning lot served shall have direct access to the Central Loading Area without crossing streets or alleys at grade.
  - (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)
  - (3) No zoning lot served shall be more than three hundred (300) feet removed from the Central Loading Area.
  - (4) The tunnel or ramp connecting the Central Loading Area with the zoning lot served shall be not less than seven (7) feet in width and have a clearance of not less than seven (7) feet.

## Section 13.1.83 Parking Requirements.

All new parking lots and all alterations of existing lots shall be subject to the approval of the Common Council. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, there shall be provided at the time any use or building is erected, enlarged, extended, or increased offstreet parking stalls for all vehicles in accordance with the following:

- (a) **Access.** Adequate access to a public street shall be provided for each parking space.
- (b) **Location.**
  - (1) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
  - (2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts but shall not be closer than five (5) feet to a side lot line, right-of-way line or rear lot line.
  - (3) Off-street parking in the single-family resident and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line providing the driveway conforms to the requirements in Section 13.1.84.
- (c) **Use Restrictions.**
  - (1) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in Residence Districts.
  - (2) **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) footcandles measured at the lot line.
  - (3) **Street Setback Area.** No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.
- (d) **Number of Stalls.** Number of parking stalls required for newly created parking lots are shown in the following table:

Use	Minimum Parking Required
Dwellings: Single-family, two-family and mobile homes	2 stalls for each dwelling unit.
Dwellings: Multi-family Housing for the elderly	2 stalls for each dwelling unit. 0.75 space for each dwelling with one-half of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Common Council may order them installed.

Hotels, motels	1 stall for each guest room plus 1 stall for each 3 employees.
Sororities, dormitories, rooming and boarding houses	1 stall for each bed.
Retirement homes, orphanages	1 stall per 2,000 feet of principal floor area.
Rest and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees.
Medical and dental clinics	5 stalls for each doctor.
Churches, community centers, vocational and night schools, and other places of public assembly	1 stall for each 5 seats.
Secondary and elementary schools	1 stall for each 2 employees plus 1 stall for each 5 students of 16 years of age or more.
Restaurants, bars, clubs and lodges, places of entertainment	1 stall for each 150 square feet.
Manufacturing and processing plants (including meat and food processing), laboratories and warehouses	1 stall for every 2 employees; number of employees shall be construed to mean the maximum number on the premises at one time.
Financial institutions, business, government and professional offices, retail and service establishments	1 stall for each 300 square feet of floor area and 1 stall for each 2 employees.
Motor vehicle sales (new and used)	1 space for each 500 square feet of floor area used plus one space for each 300 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages-see above.)
Repair shops, retail and service stores	1 space for each 150 square feet of net floor space.
Automobile repair garages and service stations	1 space for each employee plus 1 space for each 250 square feet of floor area used for repair work.
Bowling alleys	5 spaces for each alley.
(e) <b>Uses Not Listed.</b> In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.	
(f) <b>Handicapped Parking Requirements.</b> In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Secs. 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections	



adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.

- (g) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- (h) **Off-Lot Parking.**
  - (1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located offlot provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the City Attorney.
  - (2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.
  - (3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.
  - (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

### **Section 13.1.84 Driveways.**

All driveways installed, altered, changed, replaced or extended after the effective date of this Chapter shall meet the design requirements of the City of Hillsboro Code of Ordinances.

### **Section 13.1.85 Highway Access.**

- (a) **Highway Access.** No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance ramps). No driveway openings shall be

permitted within one hundred (100) feet of the intersection of an arterial street right-of-way line.

- (b) **Access Barriers.** Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- (c) **Temporary Access.** Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

### **Section 13.1.86 Storage and Parking of Recreational Vehicles and Trailers.**

- (a) **Definitions-Recreational Vehicles.** For purposes of this Section, the following definitions shall apply:
  - (1) **Mobile Home.** A structure, transportable in one or more sections, which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length, and which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. Length of a mobile home means the distance from the exterior of the front wall (nearest to the exterior of the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments. Width of a mobile home means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space, and such distance includes expandable rooms but not bay windows, porches, wall and roof extensions, or other attachments.
  - (2) **Recreation Vehicle.** Recreational vehicle means any of the following:
    - a. **Travel Trailer.** A vehicular, portable structure built on a chassis and on wheels; that is between ten (10 and thirty-six (36) feet long, including the hitch and eight (8) feet or less in width; designated to be used as a temporary dwelling for travel, recreation, vacation or other uses and towed by a car, station wagon or truck. It includes so-called fifth-wheel units.
    - b. **Pickup Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation or other uses.
    - c. **Motor Home.** A portable, temporary dwelling to be used for travel, recreation, vacation, or other uses, constructed as an integral part of a self-propelled vehicle.

- d. **Camping Trailer.** A canvas or folding structure mounted on wheels and designed for travel, recreation, vacation or other uses.
  - e. **Chassis Mounts, Motor Homes and Mini-Motor Homes.** Recreational structures constructed integrally with a truck or motor van chassis and incapable of being separated therefrom.
  - f. **Converted and Chopped Vans.** Recreational structures which are created by altering or changing an existing auto van to make it a recreational vehicle.
  - g. **Boat or Snowmobile Trailer.** A vehicle on which a boat or snowmobile may be transported and is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this Section, is termed an unmounted boat or snowmobile.
- (3) **Trailer.** A non automotive vehicle designed to be pulled by a powered vehicle for the purpose of transporting a variety of items on the roadway. Common examples include tilt trailers, flat deck utility trailers and covered trailers.
  - (4) **Boat.** Every description of watercraft used or capable of being used as a means of transportation on water.
  - (5) **Yard, Front.** That part of a lot between the front lot line and front(s) of the principal building on the lot, and extended to both side lot lines.
  - (6) **Yard, Rear.** That part of a lot between the rear lot line and the back(s) of the principal building on the lot, and extended to both side lot lines.
  - (7) **Yard, Side.** That part of a lot not surrounded by building and not in the front or rear yard.
- (b) **Permitted Parking or Storage of Recreational Vehicles, Boats and Trailers.** In all residential and commercial districts provided for in this Zoning Code, it is permissible to park or store a recreational vehicle or boat and boat trailer on private property in the following manner:
- (1) Parking is permitted inside any enclosed structure, which structure otherwise conforms to the zoning requirements of the particular zoning district where located.
  - (2) Parking is permitted outside in the side yard or rear yard provided it is not nearer than five (5) feet to the lot line.
  - (3) Parking is permitted outside on a hard surfaced or well-drained gravel driveway, provided:
    - a. Space is not available in the rear yard or side yard, or there is no reasonable access to either the side yard or rear yard.
    - b. A corner lot is always deemed to have reasonable access to the rear yard.
    - c. A fence is not necessarily deemed to prevent reasonable access.
    - d. Inside parking is not possible.
    - e. The unit is parked perpendicular to the front curb.
  - (4) The body of the recreational vehicle or boat must be at least fifteen (15) feet from the face of any curb.
  - (5) No part of the unit may extend over the public sidewalk or public right-of-way.

- (6) Parking is permitted only for storage purposes. Recreational vehicles, trailers or boats shall not be:
  - a. Used for dwelling purposes, except for overnight sleeping for a maximum of fourteen (14) days in any one calendar year. Cooking is not permitted at any time.
  - b. Permanently connected to sewer lines, water lines, or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
  - c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- (7) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
- (8) The recreational vehicle, trailer or boat shall be owned by the resident on whose property the unit is parked for storage.
- (9) The vehicle must be operational and shall not be in a state of disrepair or be stored on blocks.
- (c) Parking Upon Public Streets and Parking Lots Prohibited. No recreational vehicle, trailer or boat is permitted to be parked upon any public street or parking lot in any zoning district with the exception of ongoing loading or unloading activities.
  - (1) Where otherwise on street vehicular parking is permitted, after obtaining prior approval from the City Clerk, City Administrator, or Police, a resident may temporarily park their recreational vehicle, trailer, or boat on the public street directly in front of their dwelling unit for the purpose of travel and recreation preparation. Approval must be granted beforehand and the total time the vehicle is parked on the street may not exceed 36 hours.

*State Law Reference:* Sec. 30.50, Wis. Stats., and HFS 178, Wis. Adm. Code.

**Section 13.1.87**      Reserved for Future Use.

**Section 13.1.88**      Reserved for Future Use.

**Section 13.1.89**      Reserved for Future Use.

**Section 13.1.90**      Reserved for Future Use.

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## Article G: Signs, Canopies, Awnings and Billboards

### Section 13.1.91 Purpose of Sign, Canopy and Awning Regulations.

The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs, awnings, canopies and billboards. The provisions herein contained shall be binding alike upon every owner of a building, every tenant and every person in charge or responsible for or who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the City of Hillsboro; painting, posting and general maintenance are excepted.

### Section 13.1.92 Signs, Canopies, Awnings and Billboards Definitions.

The following definitions are used in this Article (Note: Not all types of signs defined herein are permitted under this Article):

- (a) **Abandoned Sign.** A sign which no longer correctly advertises a bona fide business, owner, landlord/tenant, product or activity conducted, or product available on the premises where the sign is displayed or elsewhere.
- (b) **Animated Sign.** Any sign or part of a sign which changes physical position by movement or rotation, or gives the illusion of such change of physical position.
- (c) **Area of Copy.** The entire area within a single continuous perimeter composed of squares or rectangles which encloses the extreme limits of an advertising message, announcement, or decoration.
- (d) **Area of Sign.** The area is the perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed unless they are designed as part of the sign. If the sign consists of more than one section or module, all areas will be totaled. The area of an irregularly shaped sign shall be computed using the actual sign face surface.

- (e) **Awning.** A movable hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure. For purposes of this Article, an "awning sign" is any awning. Decorative awnings without lettering or imagery are not considered signs.
- (f) **Banner.** A banner sign is generally constructed of a flexible non-rigid material (i.e. canvas, cloth, plastic, etc.) upon which goods, events or advertising has been placed, mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
- (g) **Billboard.** A flat surface, as of a panel, wall or fence on which signs are posted advertising goods, products, facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.
- (h) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.
- (i) **Building Front.** The horizontal, linear dimension of that side of a building which faces a street, a parking area, a mall, or other circulation area open to the general public; and having either a main window display of the enterprise or a public entrance to the building. (In industrial districts a building side with an entrance open to industrial employees also shall qualify as a building front.)
- (j) **Bulletin Board.** A sign used for the purpose of notification to the public of an event or occurrence of public interest, such as a church service, political rally, civic meeting or other similar event.
- (k) **Canopy.** Any structure of canvas, other fabric, plastic, metal or wood or other material, which is permanently attached to any exterior building wall in any manner, intended to shield any wall, window, door, sidewalk or roadway from sun, rain or any other element, and which is not retractable such as an awning.
- (l) **Canopy Sign.** Any sign attached to or constructed in, on or under a canopy for the purpose of this Article, canopy signs shall be controlled by the rules governing projecting signs.
- (m) **Changeable Message Sign.** A sign such as a manual, electronic or electric controlled time and temperature sign message center, or reader board, whether electronic or manual, where copy changes. Any sign may be, or include as part of it, a changeable message sign.
- (n) **Copy Area.** The geometric area in square feet that encloses the actual copy message of the sign.
- (o) **Directional Sign.** Any sign that directs the movement or placement of pedestrian or vehicular traffic on a lot and does not contain any advertising copy.
- (p) **Directly Illuminated Sign.** Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.
- (q) **Directory Sign.** Any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories. Directory signs shall

be encouraged for use with advertising of multiple-occupied commercial and industrial buildings.

- (r) **Display Surface or Face.** The display surface is the area made available by the sign structure for the purpose of displaying the advertising message, or which is intended to draw attention to the advertising message.
- (s) **Distance of Sign Projection.** The distance from the exterior wall surface of the building to the outer extremity of a sign attached to a building.
- (t) **Electric Sign.** Any sign containing internal electrical wiring which is attached, or intended to be attached, to an electrical energy source.
- (u) **Electronic. Message Unit Sign.** Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.
- (v) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- (w) **Flat Sign/Flush Mounted.** See definition for "Wall Signs."
- (x) **Freestanding (Ground and/or Pylon Sign).** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.
- (y) **Grade.** The elevation or level of the sidewalk closest to the sign to which reference is made. If no sidewalk is present, then grade shall be defined as the elevation or level of the street at the same point, measured at the street's centerline.
- (z) **Gross Area.** The area of a sign determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one module or section, their areas will be totaled. If the modules are formed in the shape of letters or symbols, the rules for Area of Copy apply.
- (aa) **Ground Sign.** A sign supported by poles, uprights or braces extending from the ground or an object on the ground but not attached to any part of any building. Also known as a "freestanding sign."
- (bb) **Height of Sign.** The vertical distance measured from the mean centerline street grade to the highest point of the sign. If sign and sidewalk are not in essentially parallel planes, then measured vertically at the horizontal midpoint of the sign.
- (cc) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.
- (dd) **Illuminated Awning.** An internally illuminated awning fabricated from a translucent material, or one which is backlighted as to appear to illuminate the awning sign. An illuminated awning may be used for an awning sign when other requirements are met.
- (ee) **Illuminated Canopy.** An internally illuminated canopy, or one which is backlighted as to appear to illuminate the canopy sign.
- (ff) **Illuminated Sign.** A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.
- (gg) **Indirectly Illuminated Sign.** A sign that is illuminated from a source outside of the actual sign.

- (hh) **Joint Identification Sign.** A sign which serves a common or collective identification for two (2) or more businesses or industrial uses on the same lot. Such sign may contain a directory to said uses as an integral part thereof.
- (ii) **Legal Non-Conforming Sign.** Any sign which was already in existence and displayed on the effective date of this Article, which met code requirements when originally installed, but not meeting the requirements and limitations of this Article.
- (jj) **Marquee.** A permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.
- (kk) **Marquee Sign.** Any sign attached to or constructed in a marquee.
- (ll) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Article.
- (mm) **Off-Premise Third Party Sign.** Any sign, device or display which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the sign is located.
- (nn) **On-Premise Sign.** A sign identifying or advertising a business, person, activity, goods, products or services located on a premises where the sign is installed and maintained.
- (oo) **Painted Wall Signs.** Signs painted directly onto a building wall.
- (pp) **Political Sign.** Any sign displaying a candidate for an election, or a current referendum's or election's subject matter.
- (qq) **Portable Sign/Message Boards.** Any sign not permanently attached to the ground or a building which is designed to be easily moved from one location to another.
- (rr) **Projecting Sign.** A sign other than a wall sign which projects from a wall or roof and is supported by a wall or roof of a building. (See "Wall Sign".)
- (ss) **Pylon Sign.** Any freestanding sign mounted on a pole or other pylon.
- (tt) **Real Estate Sign.** Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.
- (uu) **Roof Line.** The highest point on any building where an exterior wall encloses usable floor area including roof area provided for housing mechanical equipment.
- (vv) **Roof Sign.** A sign erected upon or above the roof line or parapet of the building or structure.
- (ww) **Sandwich Sign.** A hinged or unhinged A-frame portable sign which is generally temporary in nature and placed near the roadway.
- (xx) **Sign.** Any object or device or part thereof situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images.
- (yy) **Sign Contractor.** Any person, partnership or corporation engaged in whole or in part, in the business of erection or maintenance of signs, excluding the business which the sign advertises.



- (zz) **Sign Inspector.** That person charged with the responsibility to see that signage in the community is installed and maintained in compliance with this Article. In the City of Hillsboro, the Sign Inspector will be the Zoning Administrator.
- (aaa) **Sign Permit.** A building permit issued for the erection, construction, enlargement, alteration, moving, improvement, removal, conversion or demolition of any sign, issued pursuant to this Article and the Building Code of the City of Hillsboro.
- (bbb) **Sign Structure.** Any supports, uprights, braces and framework of the sign which does not include any portion of the sign message.
- (ccc) **Subdivision Identification Sign.** A sign identifying a subdivision wherein only the name of the subdivision is specified.
- (ddd) **Swinging Sign.** A sign installed on an arm or mast or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole to limit or prevent free swinging.
- (eee) **Temporary Sign.** Any sign which is erected or displayed for a limited period of time not to exceed thirty (30) consecutive days or which is displayed only during regular business hours and removed for storage at other times. A temporary sign shall not exceed thirty-two (32) square feet in area. Examples of temporary signs include banners and decorative-type displays. For purposes of this Article, a portable sign is not a temporary sign.
- (fff) **Time and Temperature Sign.** An electrically controlled sign displaying time and temperature for public service information and may be incorporated into a business identification sign.
- (ggg) **Third Party Sign.** Any sign which advertises or directs attention to a business, commodity, service or activity conducted, sold or offered elsewhere than on the lot on which said sign is located.
- (hhh) **Wall Sign.** Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than eighteen (18) inches from such wall, except when mounted at least twelve (12) feet above the sidewalk.
- (iii) **Window Sign.** Any sign located completely within an enclosed building and visible from a public way. For purposes of this Article a window sign shall not include any sign permanently attached in the window or directly painted on the glass.

### **Section 13.1.93 Required Permits for Signs, Canopies, Awnings and Billboards.**

- (a) **Permit Required.**
  - (1) Except those specified in Section 13.1.94, no sign, billboard, awning or canopy, as defined in this Article, shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Article.

- (2) Signs also shall meet all other structural requirements of other applicable codes and ordinances of the City of Hillsboro.
  - (3) Signs shall not be erected or altered until a permit has been issued by the Zoning Administrator. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance.
  - (4) The required sign permit fee shall accompany each sign application and shall be required for all new signs and any modifications of any existing sign face or sign structure.
  - (5) Any sign permit granted hereunder may not be assigned or transferred to any other sign or modified sign face or sign structure.
- (b) **Application for a Permit.** Any person, firm, corporation or organization desiring to place, erect, alter or relocate a sign, as herein defined, except an exempt sign, shall make application to the Zoning Administrator and shall provide in writing the following information:
- (1) The name, address and telephone number of the applicant.
  - (2) The name and address of the owner or owners of the premises upon which the sign is to be attached or erected, including written proof of consent from the property owner upon which the sign(s) are to be erected and maintained.
  - (3) The street number and street name or tax parcel number of the land upon which the sign is to be attached or erected.
  - (4) A legible scaled drawing with description and dimensions of the sign(s) to be erected or maintained under that permit and the sign's proposed location on the building or site.
  - (5) The basic materials to be used in the construction of the sign.
  - (6) The name, address and telephone number of the owner of the sign if he or she is neither the applicant nor the owner of the premises on which the sign is to be attached or erected.
  - (7) A description of all electrical equipment if the sign is to be lighted or illuminated.
  - (8) Proof of payment of the appropriate sign permit fee, when required.
  - (9) Any other item of information that may be reasonably required by the Zoning Administrator or other City officials for the purpose of application evaluation.
- (c) **Plan Commission Application Review.** If the application is complete and the sign conforms to the basic requirements of this Article, the following actions shall be taken:
- (1) The Zoning Administrator shall have the authority to approve or deny any sign application on a case by case basis. Depending on factors such as size, electronics, location, etc., the Zoning Administrator may refer the application to the Plan Commission for review. Signs designated in Section 13.1.97 do not apply.
  - (2) If the Zoning Administrator designates the application for Plan Commission review, the Plan Commission shall review all applications within thirty (30) days of submittal. The Plan Commission shall review the applications and apply the established Sign Design Review Guidelines prescribed in Subsections (d) and (e). If the Plan Commission cannot act to approve, deny or to agree with the applicant to extend the time within the thirty (30) day review period, the Zoning Administrator

shall be authorized to act on the application using the established Sign Design Review Guidelines.

- (d) **Basis for Granting.** In reviewing a sign permit application, the Zoning Administrator and/or Plan Commission may consider the following factors in deciding whether or not to grant the issuance of a sign permit [see also Subsection (e) below]:
- (1) Whether the sign is designed, installed, and maintained to promote the surrounding environment desired by the general public, pursuant to the objectives of proper design and zoning criteria.
  - (2) Whether the sign is designed, constructed, installed, or maintained in such a manner that it does not endanger public safety or traffic safety.
  - (3) Whether the sign is legible, readable, and visible in the circumstances in which it is to be used.
  - (4) Whether the sign, including size, height, illumination and location, is respectful of reasonable rights of other advertisers whose messages are displayed in the area.
  - (5) Whether the sign is in compliance with the provisions of this Article.
  - (6) Whether the sign is in compliance with the provisions of the City of Hillsboro Code of Ordinances relating to traffic safety, traffic visibility setbacks, historic preservation and zoning.
- (e) **Sign Design Review Guidelines.** In addition to the criteria established in Subsection (d) above, the following Sign Review Guidelines shall be used by the Plan Commission in acting on sign permit applications and by the Zoning Board of Appeals in acting on appeals or variance requests:
- (1) Any signage affixed to a building should be dimensioned and located in such a manner that it fits the building's architectural features and proportions.
  - (2) All signs should be designed to fit the zoning and status character of the surrounding area. Special consideration should be made where proposed signage is located on or adjacent to locally identified historic structures or publicly owned recreation and conservancy areas. Signage in special planning areas, such as the downtown, or historic preservation areas, will be required to conform to the planned dominant architectural theme of the area. Signage in or abutting residential properties should be designed and located so as not to create a residential nuisance.
  - (3) As a general guidelines and where feasible, ground mounted, free standing signs larger than six (6) square feet shall be located at least one hundred (100) feet apart.
  - (4) Signs illuminated by floodlight or spotlights must be positioned in such a manner that none of the light spills over onto an adjoining property or glares or shines into the eyes of motorists or pedestrians, and may not exceed three (3) footcandles at the lot line.
  - (5) As a general guideline, the number of colors and materials should be kept to a minimum.

- (6) Landscape features will be encouraged as part of all ground mounted signs. Landscape plantings or other landscape materials will not be counted as part of the allowable signage area.
- (f) **Permit Issuance/Denial.**
  - (1) All sign permit applications shall be reviewed by the Zoning Administrator who shall deny or grant such applications or refer the application to the Plan Commission, within ten (10) business days of receipt of the complete application and payment of fee. If the sign meets the requirements of this Article, all other ordinances of the City and the approval of the Plan Commission as established herein, the Zoning Administrator shall issue a permit therefor.
  - (2) If the sign permit is denied by the Zoning Administrator or Plan Commission, within five (5) days, a written notice of the denial shall be provided to the applicant, together with a brief written statement of the reasons for the denial.
  - (3) No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign, nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.
- (g) **Inspection.** The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the Zoning Administrator who may inspect the premises to inspect whether the sign complies with the regulations of this Article.
- (h) **Appeal of Denial of Sign Permit.**
  - (1) Any decision of the Plan Commission or Zoning Administrator under this Article may be appealed to the Board of Appeals. A request for an appeals hearing shall be made in writing to the Zoning Administrator within thirty (30) days of the date of permit denial.
  - (2) A majority vote of the Board of Appeals is required to modify the earlier determination of the Zoning Administrator or Plan Commission.
- (i) **Permit Revocation; Appeal.**
  - (1) A sign permit may be revoked by the Zoning Administrator in the event that the applicant has failed to comply with the provisions of these regulations or any conditions that may have accompanied the permit at the time of granting.
  - (2) The holder of a revoked sign permit may appeal such revocation action to the Board of Appeals. A request for an appeals hearing shall be made in writing to the Zoning Administrator within thirty (30) days of the date of the original permit revocation.
  - (3) Upon any permit revocation or failure to prevail before the Board of Appeals, the sign(s) subject to such revoked permits shall be removed by the licensee within thirty (30) days of such revocation.
  - (4) Revocation shall not give cause to a right of total or partial reimbursement of license fees paid.
- (j) **Standards for Board of Appeals in Reviewing Appeals.** The Board of Appeals may authorize upon appeal, in specific cases, issuance of a sign permit when such decision will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Article will result in unnecessary hardship and so

that the spirit of this Article shall be observed and substantial justice done. No Board of Appeals's appellate decision shall have the effect of allowing in any district uses prohibited in that district or permit standards significantly lower than those required by state law or this Article.

- (k) **Stay of Proceedings During Appeals.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his/her opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Administrator and on due cause shown.
- (l) **Signs in Historic Districts.** In addition to these sign regulations, all signs within any historic district shall be subject to the provisions of the City's Historic Preservation Code.
- (m) **Permit Validity.** Any sign permit issued by the Zoning Administrator shall be null and void and automatically revoked in the event that construction, installation, or manufacture of the sign has not been commenced within one hundred eighty (180) days from the date of the issuance of such permit. If work authorized by such permit is suspended or abandoned for a period of ninety (90) days any time after the work is commenced, the original permit shall become null and void. A new permit shall first be obtained to complete the work, and a new permit fee shall be required.

*Cross-Reference:* Section 13.1.104, Variances.

## **Section 13.1.94 Signs Not Requiring a Permit.**

The following signs may be erected and maintained in all zoning districts, except where noted, without a permit and without being deducted from gross sign surface area permitted.

- (a) **Bulletin Boards.** One bulletin board per street frontage, and not over thirty-two (32) square feet in area, for public, charitable or religious institutions located on site.
- (b) **Government Signs.** Government signs for control of traffic and other regulatory purposes, danger signs, railroad crossing signs, and signs of public utilities indicating danger, and aids to service or safety which are erected by or on the order of a public officer in the performance of his/her public duty. Included within this definition are off-premise institutional signs.
- (c) **Interior Signs.** Signs located within the interior of any building or structure which are not visible from the public right-of-way.
- (d) **Memorial Signs.** Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface, or inlaid so as to be part of the building.
- (e) **Occupant Signs.** Signs limited in content to name of occupant, address of premises, and signs of danger. Occupant signs shall be a maximum of one (1) per street front and no more than three (3) square feet in sign area.

- (f) **Governmental Notices.** Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs to control traffic or for other regulatory purposes or to identify streets or to warn of danger.
- (g) **Temporary Construction Safety Signs.** Temporary or permanent signs erected by public utility companies or construction companies to warn of dangerous or hazardous conditions.
- (h) **Traffic and Service Signs on Private Premises.** Traffic and parking signs and devices privately-owned and on private premises, and containing messages such as "exit only", "restricted for - ", and the like, the sole purpose of which is to direct and control traffic on the premises and which does not exceed ten (10) feet in height nor contain more than twelve (12) square feet per face. Signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to functional operation of the building or premises shall be permitted without permit under this exception.
- (i) **Signs Required by Law.** Signs required by law, statute or ordinance, constructed and maintained according to the law, statute or ordinance under which the sign was erected.
- (j) **Real Estate Signs.** One sign per street frontage may be placed on the offered property and shall not be more than seven (7) square feet in size for residential property and not more than thirty-two (32) square feet in area for non-residential property. The sign may only advertise the sale, rental or lease of the premises upon which it is located and contain the name and/or logo of the real estate company, or individuals and their respective addresses and telephone numbers, posting the sign. Such signs shall be removed within thirty (30) days after sale, rental or lease of the property.
- (k) **Signs in Display Windows.** Signs in the display window of a business which relate to services or products offered therein. This display sign exception is only permitted for properties in the following zoning districts: C-1 General Commercial District and C-2 Highway Commercial District. The window sign must direct attention to a business or profession conducted on the premises or to a product, service or entertainment sold or offered on said premises. Window signs shall be placed only on the inside of commercial buildings and shall not exceed thirty-five percent (35%) of the glass area of the pane upon which the sign is displayed.
- (l) **On-Premise Symbols or Insignia.** Religious symbols, commemorative plaques of recognized historic agencies, or identification emblems of religious orders or historical agencies.
- (m) **On-Premise Temporary and Portable Signs in Residential Districts.** Temporary or portable signs under twenty (20) square feet for the purpose of an on-site open house, model home demonstration, special event such as a birthday or anniversary, and for five (5) days thereafter, but may not exceed a total period of thirty (30) days per twelve (12) month period.
- (n) **Civic Event Temporary Signs.** Temporary off-premises signs not exceeding four (4) square feet in residential or public lands districts, or thirty-two (32) square feet in the C-1, C-2, I-1 and I-2 Districts, pertaining to drives or events of civic, philanthropic, educational, religious, or non-profit organizations, provided such signs are posted not

- more than thirty (30) days before said event and removed within seven (7) days after the event.
- (o) **Political Signs.** Political message, public election or referenda signs during an election campaign, as defined in Sec. 12.04, Wis. Stats. Political signs may be posted sixty (60) days before an election and must be removed within seven (7) days after said election. Said signs shall be a maximum of sixteen (16) square feet.
  - (p) **Rummage/Garage Sale Signs.** Rummage or garage sale signs shall be bound by the following regulations
    - (1) Rummage or garage sale signs are permitted on private property in a location which does not create a visibility or traffic hazard (as determined by the Zoning Administrator, Building Inspector, or a Law Enforcement Officer).
    - (2) Garage sale signs may not have an area more than six (6) square feet with a maximum of two (2) faces. Garage sale signs shall identify the location of the sale and must be located at least five (5) feet from the street line or nearest lot line.
    - (3) No garage sale sign may be located on utility poles, traffic control devices, on public property, or the public right-of-ways.
    - (4) No garage sale sign shall be displayed prior to one (1) day before the sale or after one (1) day following the sale. The use of said sign is limited to a 72 hours per sale.
    - (5) No more than one (1) garage sale sign may be located at the sale site and no more than two (2) garage sale signs may be located off the site, except that two (2) signs are permitted on corner lots, one facing each street.
  - (q) **Open/Close Signs.** Illuminated and non-illuminated signs not exceeding ten (10) square feet in area announcing that a business is open or closed.

### **Section 13.1.95 Residential Signs Requiring a Permit.**

In addition to those permitted signs not requiring a permit pursuant to Section 13.1.94, the following nonflashing, nonilluminated signs (except as otherwise provided) are permitted under the conditions specified in all residential, mobile home, and agricultural districts, and planned unit developments (residential) established by the City's Zoning Code.

- (a) **Temporary Signs Accessory to Subdivision Developments or Other Permitted Improvements in Residential Districts.** Subject to the following:
  - (1) **Content.** The signs shall be only for the purpose of identification of homes for sale or rent in the subdivision under construction, of lots for sale, or for the identification of other nonresidential uses under construction.
  - (2) **Area, Number and Setback.** Such signs shall not exceed two (2) in number for each subdivision nor fifty (50) square feet each in area. They shall observe the front yard requirement of the principal use and shall be located at least fifty (50) feet from all other boundaries of the site.
  - (3) **Height.** No sign shall project higher than eight (8) feet above curb level.

- (4) **Time Limitations.** The sign or signs shall be removed by the applicant or property owner within two (2) years of the date of the issuance of a sign permit or when the parcels being advertised are sold, whichever occurs first.
- (b) **Permanent Subdivision Identification Signs.** Subject to the following:
  - (1) **Content.** The signs shall bear only the name of the subdivision or development.
  - (2) **Area and Number.** There shall be not more than two (2) signs located at each entrance to a subdivision. No sign shall exceed thirty-two (32) square feet in area. Such identification signs shall only be erected after review and approval by the Zoning Administrator.
  - (3) **Height.** No sign shall project higher than twelve (12) feet above curb level.
  - (4) **Location.** The location of any such sign shall be at the discretion of the Zoning Administrator based upon the character of the area, the type and purpose of the sign.
- (c) **Nonflashing, Illuminated Church Bulletins.** Subject to the following:
  - (1) **Area and Number.** There shall be not more than one (1) sign per lot, except that on a corner lot, two (2) signs (one facing each street) shall be permitted. No sign shall exceed thirty-two (32) square feet in area nor be closer than five (5) feet from any lot line.
  - (2) **Projection.** No sign shall project beyond the property line into the public right-of-way.
  - (3) **Height.** No sign shall project higher than one (1) story or fifteen (15) feet above the curb level, whichever is lower.
- (d) **Bed and Breakfast Signs.** Subject to the following:
  - (1) **Content.** The sign shall bear only the name, address and other pertinent information regarding the bed and breakfast establishment.
  - (2) **Area and Number.** There shall not be more than one (1) sign per lot street frontage. No sign shall exceed sixteen (16) square feet in area. Such sign shall have a ten (10) feet setback from a public right-of-way or lot line.
  - (3) **Projection.** No sign shall project beyond the property line into the public right-of-way.
  - (4) **Height.** No sign shall project higher than six (6) feet above the street level.
- (e) **Home Occupation/Professional Home Office.** Subject to the following:
  - (1) **Content.** The sign shall bear only the name, address, hours and other pertinent information regarding the on-site home occupation or professional home office maintained in compliance with the City's Zoning Code.
  - (2) **Area and Number.** There shall not be more than one (1) sign per lot. No sign shall exceed six (6) square feet in area. Such sign shall have a ten (10) foot setback from a public right-of-way or lot line.
  - (3) **Projection.** No sign shall project beyond the property line into the public right-of-way.
  - (4) **Height.** No sign shall project higher than six (6) feet above the street level.



## Section 13.1.96 Commercial and Industrial Signs Requiring a Permit.

- (a) **Permitted Signs.** The following signs shall require a permit to be issued by the City of Hillsboro. Signs may be permitted in specific zoning categories, subject to the following restrictions.
- (b) **Height and Setback Requirements.** In commercial or industrial zoning districts where setbacks are required for building construction, no part of any sign shall extend over the property line. In zoning districts where no front yard setbacks are required, a sign must be attached to the building and shall project no more than four (4) feet over the abutting public sidewalk or established street grade.
- (c) **Number of Signs Permitted.**
  - (1) **Total Number.** No more than two (2) signs of any type shall be located at any business, except that premises occupied by a shopping center may, as an alternative, have one (1) detached directory sign plus one (1) wall sign for each place of business located in said shopping center, provided that the aggregate total area of all signs located on any premises so occupied shall not exceed the total area permitted for one (1) detached sign and one (1) flat sign as set forth in this Article.
  - (2) **Corner Lots.** Businesses with streets fronting both sides shall be allowed two (2) types of signs for each street frontage; no street frontage buildings shall be allowed two (2) of the same type of sign for that particular business.
- (d) **Types of Signs, Maximum Size, Number and Location.**
  - (1) **Directory Signs.** Directory signs advertising a business or activity conducted, an area of interest, or a service available at a specific location are permitted in the C-1, C-2, I-1 and I-2 Districts when a part of a City-sponsored directory sign program. Such signs shall be not more than twenty-four (24) square feet in gross area. There shall not be more than two (2) such signs relating to any one (1) such use in the approaching direction along any one (1) highway. Such signs may be placed at the right-of-way line of the highway. A larger number of signs may be permitted by the Plan Commission if the Plan Commission shall find it necessary for directing the traveling public. The Plan Commission shall designate a uniform sign design for such directory signs.
  - (2) **Wall Signs.** Wall signs are permitted in the C-1, C-2, I-1 and I-2 Districts. Wall signs placed against the exterior walls of buildings shall not extend more than sixteen (16) inches outside of a building's wall surface, nor extend above or beyond the wall itself. Total sign area (including multiple business/tenant signs on a single property) shall not exceed one (1) square foot for each lineal foot of the building parallel with the main street frontage. Rear or side entrance signs are subject to the same size restrictions as that found at the principal (front/main) entrance to the building. Signs on other building facades (i.e. non-entrance side facades) are limited to one-half (1/2) square foot per lineal foot of such facade.

All signs attached or affixed to a building shall not exceed twenty (20) feet in height above the mean centerline street grade.

- (3) **Projecting Signs.** Projecting signs fastened to, suspended from, or supported by a building or structure, shall not exceed in gross area for any one (1) premise: forty (40) square feet on each of two (2) faces in the C-2 Highway Commercial District, and forty (40) square feet on each of two (2) sides in an Industrial District. With the exception of existing marquee signs of historic interest, permits shall not be issued for new projecting signs in the C-1 General Commercial District. Such signs shall not extend into any public right-of-way; shall not exceed a height of twenty (20) feet above the mean centerline street grade; and shall not be less than ten (10) feet above a pedestrian walk nor less than fifteen (15) feet above an alley or driveway.
- (4) **Ground Signs.** Ground signs and their supporting structure shall comply with all setback requirements of the District in which they are located, except that ground signs in a C-2 Highway Commercial District may be located up to a public right-of-way. Ground signs shall not exceed in gross area for any one (1) premise: forty (40) square feet on each side in a C-1 General Commercial District; one hundred twenty (120) square feet on each side in a C-2 Highway Commercial District; or one hundred sixty (160) square feet on each side in an I-1 or I-2 Industrial District. Such signs shall not exceed at their highest point twenty (20) feet in height above mean centerline street grade. One (1) ground sign is permitted on a street frontage provided there is no pylon sign on that side. Any ground sign in a C-2 Highway Commercial District or I-1 or I-2 Industrial District shall have a minimum landscaped area of sixteen (16) square feet around the base of the ground sign.
- (5) **Pylon Signs.** Pylon signs shall not exceed thirty (30) feet in height in a C-2 Highway Commercial District or I-1 or I-2 Industrial District. Pylon signs shall not be placed in the C-1 General Commercial District. Height is measured above the mean centerline of street grade. The sign shall be completely within the property upon which it is located. One (1) pylon sign per street frontage is permitted. Size is limited to one hundred (100) square feet for one (1) side, or two hundred (200) feet for all sides. When there exists a property zoned in a C-2 Highway Commercial District with continuous road/highway frontage in excess of three hundred (300) feet, the size is limited to two hundred (200) square feet per side or four hundred (400) square feet for all sides. Any pylon sign shall have a minimum landscaped area of sixteen (16) square feet around the base of the pole.
- (6) **Off-Promise Third Party Signs.** Off-premise third party signs are prohibited except that a business in a C-2 Highway Commercial District may have an off-premise pylon or ground sign shared with a physically adjacent business on the adjacent business' property. Such a shared sign shall comply with the dimensional requirements of Subsections (d)(4) and (5) above, except that the secondary sign's dimensions shall not exceed fifty percent (50%) of the primary sign's maximum

allowable dimensions. Such signs shall share the same pylon or ground sign mountings.

- (7) ***Shopping Center/Industrial Park Directory Signs.*** In a shopping center or industrial park, one (1) free-standing identification/directory sign for each street upon which the development fronts may be permitted showing the name of said center or park and represented business or industries. Directory signs for shopping centers or industrial parks are permitted as an alternative to ground signs or projecting signs for individual stores in the shopping center or business in the industrial park. The top of a directory sign shall not exceed thirty-two (32) feet in height above the mean centerline street grade and the bottom of the sign shall not be less than ten (10) feet above the sidewalk and not more than sixteen (16) feet above a driveway or alley. Double supporting pylons shall not be greater than ten (10) feet apart. That portion of the directory sign which advertises the shopping center or industrial park name shall not exceed one hundred (100) square feet for one (1) side and a total of two hundred (200) square feet for all sides. That portion of the directory sign which advertises the individual store/business name shall not exceed sixteen (16) square feet for one (1) side and a total of thirty-two (32) square feet for all sides. Directory signs shall meet all yard requirements for the zoning district in which they are located.

## **Section 13.1.97 Special Sign Requirements.**

- (a) **Electronic Message Unit Signs.**
- (1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.
  - (2) Segmented messages must be displayed for not less than one-half (1/2) second and more than ten (10) seconds.
  - (3) Traveling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second.
- (b) **Portable Signs/Message Boards.** Such signs shall be limited in use to seven (7) days at a time following approval by the Zoning Administrator, provided, however, that the Zoning Administrator shall not give approval for placement of a portable sign/message board if it presents a vision obstruction; such signs shall not be displayed more frequently than four (4) times per calendar year at any one (1) location, not more than seven (7) days each time. The maximum size of a portable sign/message board shall be ten (10) square feet on each face, back to back. Portable signs/message boards shall not be located in any public right-of-ways and shall be securely fastened to prevent any hazardous condition.
- (c) **Search Lights.** The Zoning Administrator may permit the temporary use of a searchlight for advertising purposes in any district provided that the searchlight will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlight

permits shall not be granted for a period of more than five (5) days in any six (6) month period.

- (d) **Sandwich Signs.** In instances where the property owner or business tenant in a C-1 General Commercial District wishes to erect a sandwich board, there is a limit of one (1) sandwich board per business tenant and such sign shall not exceed four (4) feet in height and eight (8) square feet per side display area. Sandwich signs may be placed only after issuance of a sign permit and shall be placed in a manner so as not to present a hazard.
- (e) **On-Site Banner Signs.** On-site banner signs, whether permanent or temporary, are not permitted.
- (f) **Over-the-Street Banners.** Over-the-street banners are not permitted.
- (g) **Neon Signs.** Exterior neon or gas illumination signs require a sign permit.

### **Section 13.1.98      Awnings and Canopies.**

- (a) **Permitted Awnings.** No awnings shall be erected or maintained, except such awnings as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
  - (1) **Support.** Awnings shall be securely attached to and supported by the building and shall be without posts or columns beyond the setback line.
  - (2) **Height.** All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than eight (8) feet above the level of the public sidewalk or public thoroughfare.
  - (3) **Awning Extension from Curb Line.** No entrance awning shall extend beyond a point eight (8) feet into the right-of-way.
  - (4) **Advertising.** No advertising shall be placed on any awning, except that the name and logo of the establishment within the building to which the awning is attached may be painted or otherwise permanently placed in a space not exceeding eight (8) inches in height on the front and side edges.
- (b) **Permitted Canopies.** No canopies shall be erected or maintained, except such canopies as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
  - (1) **Support.** The structural support of all canopies shall be properly designed and be approved by the Zoning Administrator as in compliance with the Building Code of the City. All frames and supports shall be designed to withstand a wind pressure as provided in this Article. All canopies and awnings shall be attached to a building, and no supports shall exist beyond the setback line between the canopy and/or awning and the sidewalk or ground below.
  - (2) **Height Above Sidewalk.** All canopies shall be constructed and erected so that the lowest portion thereof shall not be less than eight (8) feet above the level of the sidewalk or public thoroughfare.

- (3) **Canopy Extension from Curb Line.** No entrance canopy shall extend beyond a point eight (8) feet from the face of a wall or building.
- (4) **Advertising.** No advertising shall be placed on any canopy, except that the name and logo of the establishment may be painted or placed in a space not exceeding twentyfour (24) inches in average height on the front and side edges. Such name may be so painted or placed irrespective of any prohibition otherwise applicable hereunder, providing, however, that if such canopy shall contain more or other than the name of the establishment in letters more than eight (8) inches high on the front and side edges, it shall be considered as a sign and be subject to all the provisions hereof.

### **Section 13.1.99 Prohibited Features.**

Landscape features such as plant materials, berms, boulders, fencing and similar design elements unincorporated or in conjunction with freestanding signs are encouraged and shall not be counted as allowable sign area. The base of signs shall be landscaped so as to conceal footings, mountings, brackets, and related structural elements.

### **Section 13.1.100 Prohibited or Restricted Signs.**

- (a) **Traffic Interference.** Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs or devices. Signs, canopies and awnings shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign, awning or canopy shall be placed so as to obstruct or interfere with traffic visibility.
- (b) **Moving or Flashing Signs.** No sign shall be erected which has any flashing, rotating or brilliant intermittent parts or lights, bare reflecting-type bulbs, or utilizes a spot or beacon light to illuminate a sign, except those giving public service information such as time, date, temperature, weather or similar information. Public information display signs require approval by the Plan Commission. No signs, billboards or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.
- (c) **Signs on Public Rights-of-Way.** Signs shall not be permitted on public rights-of-way, except for municipal traffic control, parking and directional signs and as otherwise specified in this Article.
- (d) **Billboards.** No new billboards shall be permitted in the City of Hillsboro after the effective date of this Article. Billboards located upon property annexed to the City and existing as of the effective date of this Article are permitted to remain unless the owner structurally alters such billboard in any manner. If damaged, or if structural alteration is

made/required, such billboard shall be permanently removed. However, any billboards existing as of the effective date of this Article must be removed permanently within three (3) years following annexation, and with such removal being agreed to in writing by the owner/lessor/lessee thereof in writing prior to such annexation.

- (e) **Painted Wall and Other Prohibited Signs.** Painted wall signs are signs which are painted directly onto the surface of the building; painted wall signs are prohibited in the City of Hillsboro. No person shall paste or otherwise fasten any paper or other material, paint, stencil or write any number, sign, name or any disfiguring mark within any street right-of-way, on any sidewalk, curb, gutter, street, post, fire hydrant, pole or tree, any other sign, building, fence or other structure, nor shall any of said objects be defaced in any manner. No signage shall be used except those types specifically permitted by this Article.
- (f) **Immoral Sign Subjects.** Signs which bear or contain statements, words, pictures, or symbols of obscene, pornographic or immoral subjects are prohibited.
- (g) **Roof Signs.** Roof signs are prohibited in the City of Hillsboro.
- (h) **Swinging Signs.** Swinging signs are prohibited.
- (i) **Third-Party Signs.** Third-party signs and billboards are prohibited, except as provided in Section 13.1.96(d)(6).
- (j) **Advertising Vehicle Sign Configuration.** No persons shall park any vehicle or trailer on a public right-of-way or on private properties so as to be seen from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purposes of providing advertisement of products or directing people to a business activity located on the same or nearby property or any other premise. Business vehicles containing typical business signage and which are actively used on a daily basis for business purposes, are exempt from this prohibition.
- (k) **Floodlighted and Illuminated Signs.** Signs may be floodlighted or illuminated, subject to the following restrictions:
  - (1) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled ways of a public right-of-way and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operations of a motor vehicle, are prohibited.
  - (2) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any residential property, and which are of such intensity or brilliance as to cause a public nuisance, are prohibited.
  - (3) No sign shall be so floodlighted or illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.
  - (4) Spotlights and beacons are restricted under Subsection (b) above.

## Section 13.1.101 Nonconforming Signs.

(a) **Nonconforming Signs.**

- (1) **Nonconforming Sign Criteria.** Signs existing as of the effective date of this Article which do not conform to the provisions of this Article are nonconforming signs and shall be subject to the provisions of this Section. Nonconforming signs may be maintained. No nonconforming on-premise sign shall be altered or moved to a new location without being brought into compliance with the requirements of this Article. [Refer to Subsection (b) below.] Compliance is the responsibility of the property owner.
- (2) **New Signs Not Permitted.** Business signs on the premises of a nonconforming use or building may be continued per this Section, but new signs for such uses shall not be allowed, nor shall expand in number, area, height, or illumination. New signs, not to exceed the maximum allowable aggregate sign area, may be erected only upon the complete removal of all other signs existing at the time of adoption of this Article.
- (3) **Removal of Nonconforming Signs After Amortization Period.** The Common Council finds that the City's development and increased competition among various businesses located in the City has significantly increased the number of signs. The result has been an excessive number of signs, which tend to increase public confusion, interfere with other signs, distract operators of motor vehicles, and cause visual blight. The Common Council has determined that it is in the public interest to eliminate legal nonconforming signs. The Common Council also recognizes that owners of signs may have property interests of value in such nonconforming signs that may be amortized over time and thus is adopting a reasonable phase-out period. All legal nonconforming signs which could not be erected under the standards of this Article shall be removed, at the cost of the property owner, within ten (10) years of the effective date of this Article.
- (4) **Removal Upon Business Termination.** Nonconforming signs shall be removed when the principal structure located on the premises undergoes a change of use, or shall be removed per Section 13.1.105. Closing businesses must remove their signs within thirty (30) days of closing.
- (5) **Change In Sign User.** Whenever there is a change in the sign user (excluding off-premise signs) or owner of the property on which the sign is located, the new sign user or new property owner shall forthwith notify the Zoning Administrator of the change. No new sign permit is required unless there is modification of the sign face or sign structure.

(b) **Alteration of Signs.**

- (1) **Alteration Defined.** For the purpose of this Article, alteration of a sign is considered to be any change to the exterior appearance of any part of the sign, its frame, its supporting structure, or its lighting including: changing the message

- (except for marquee or off-premise advertising signs), symbols, color, material, height or location.
- (2) ***Maintenance Exception.*** Altering a sign does not include maintaining the existing appearance of the sign; replacing the sign face or the supporting structure with identical materials, colors, and messages; changing the message of a marquee sign; or changing the face of an off-premise advertising sign.
- (c) **Loss of Legal Nonconforming Status.**
- (1) In addition to the standards in Subsections (a) and (b) above, a sign may also lose its nonconforming status if one (1) or more of the following occurs:
- a. If said sign is damaged by fire, flood, explosion, earthquake, vandalism, war, riot or Act of God; or structurally altered in any way, except for normal maintenance and repair; the sign may be reconstructed and used as before if it is reconstructed within three (3) months after such calamity, unless the damage to the sign is fifty percent (50%) or more of its replacement value, in which case, the constructed sign shall comply with the provisions of this Article.
  - b. The sign is relocated;
  - c. The sign fails to conform to the City requirements regarding maintenance and repair, abandonment or dangerous or defective signs;
- (2) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Article with a new permit secured therefor or shall be removed.
- (d) **Legal Nonconforming Sign Maintenance and Repair.** Nothing in this Article shall relieve the owner or use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Article regarding safety, maintenance and repair of signs. However, legal nonconforming signs shall not be reinstalled, reconstructed or have their useful life extended.

### **Section 13.1.102 Dangerous and Abandoned Signs.**

- (a) **Removal of Dangerous Signs.** All signs shall be removed by the owner or tenant of the premises upon which the sign is located if in the judgment of the Zoning Administrator, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or tenant fails to remove it, the Zoning Administrator may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the decision of the Building Inspector to the Board of Appeals.
- (b) **Abandoned Signs.** Except as otherwise herein provided, all sign messages shall be removed by the owner or lessee of the premises upon which an off-premise sign is located when the business it advertised is no longer conducted where advertised. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner sixty (60) days' written notice to remove said sign and thereafter upon the owner's or



lessee's failure to comply may remove such sign, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Zoning Administrator may take any other appropriate legal action necessary to attain compliance.

- (c) **Violations.** All signs constructed or maintained in violation of any of the provisions of this Sign Code after the date of adoption are hereby declared public nuisances within the meaning of the City of Hillsboro Code of Ordinances. In addition to the penalty provisions for violations of this Article, the Zoning Administrator or Common Council may bring an action to abate the nuisance in the manner set forth in the Wisconsin Statutes or City ordinance.

### **Section 13.1.103 Construction and Maintenance Regulations for Signs.**

- (a) **Installation.** All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector or Zoning Administrator.
- (b) **General Requirements.**
- (1) **Construction Standards.** All signs, except flat signs and those signs weighing less than ten (10) pounds, shall be designed, fastened and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed, attached, fastened or anchored to adequately support the dead load and any anticipated live loads (i.e., ice, snow) of the sign.
  - (2) **Projection.** Signs including supports shall not interfere with surrounding properties or traffic.
  - (3) **Prohibited Mounting.** No signs shall be painted on, attached to or affixed to any trees, rocks, or other similar organic or inorganic natural matter, including utility poles or apparatus.
  - (4) **Maintenance.** All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean. All signs shall be kept in good structural condition, well painted, and clean at all times and the immediate premises shall be maintained in a clean, sanitary and inoffensive condition and kept free and clear of all obnoxious substances, rubbish and weeds.
  - (5) **Annexed Areas.** All signs in newly annexed areas shall comply with this Article within three (3) years of annexation.

### **Section 13.1.104 Variances or Exceptions.**

Variances or exceptions to these sign regulations may be granted by the Board of Appeals following a recommendation from the Zoning Administrator, pursuant to the procedures of the City Zoning Code.

### **Section 13.1.105 Violations of Sign Code.**

- (a) **Construction Without Permit.** Any person, firm or corporation who begins, erects, improperly alters, or completes the erection or construction of any sign, awning or canopy controlled by this Article prior to the granting of a sign permit shall pay a penalty double the amount of the permit otherwise required.
- (b) **Compliance Notice.**
  - (1) If the Zoning Administrator finds any sign, awning or canopy regulated herein unsafe or insecure or is a menace to the public, or has been improperly erected, altered or maintained, it shall give written notice to the sign owner and to the property owner.
  - (2) If such sign, awning or canopy owner fails to remove or alter the sign, awning or canopy so as to comply with the standards herein set forth within five (5) days after such notice, the Zoning Administrator may cause such sign, awning or canopy to be removed or altered at the expense of the owner of the sign, awning or canopy or the owner of the property upon which it is located so as to comply with the provisions of this Article, per Sec. 66.0703, Wis. Stats.
- (c) **Violations; Penalties.** Any person who shall violate any of the provisions of this Article shall be subject to a penalty which shall be as follows:
  - (1) Any person found guilty of violating any part of this Article who has previously been notified of being in violation, upon conviction thereof, be subject to a forfeiture as prescribed by Section 13.1.147.
  - (2) Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Article shall preclude the City from also maintaining any appropriate action to prevent or remove a violation of any provision of this Article.

**Section 13.1.106** Reserved for Future Use.

**Section 13.1.107** Reserved for Future Use.

**Section 13.1.108** Reserved for Future Use.

**Section 13.1.109** Reserved for Future Use.

**Section 13.1.110** Reserved for Future Use.

# Title 13 - Chapter 1

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## Article H: Performance Standards

### Section 13.1.111 Compliance.

- (a) This Chapter permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. No structure, land, or water shall hereafter be used except in compliance with their district regulations and with the following performance standards.
- (b) The City of Hillsboro has specific restrictive covenants for the Hillsboro Industrial Park in Tinkers Bluff. Nothing in this Chapter shall supersede such covenants or otherwise restrict their enforcement. Portions of this Article may, however, be deemed applicable to the Industrial Park.

### Section 13.1.112 Sound.

The volume of sound inherently and recurrently generated shall not exceed the following standards at any point along the boundaries of the zone in which the use is located:

- (a) Objectionable sounds of an intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.
- (b) Maximum sound pressure levels shall be measured with a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association and shall not exceed the values for octave bands lying within the several frequency limits given in the following table after the application of appropriate corrections:

<b>C-1 and C-2 Districts</b>	
<b>Frequency Ranges Containing Standard Octave Bands in Cycles Per Second</b>	<b>Octave Band Sound Pressure Level in Decibels</b>
0 - 74	72
75 - 149	67
150 - 299	59
300 - 599	52
600 - 1,199	46
1,200 - 2,399	40
2,400 - 4,800	34
Above 4,800	32

<b>Type of Operation or Noise</b>	<b>Correction in Decibels</b>
Daytime operation only	+ 5
Noise of impulsive character (e.g. hammering)	- 5
Noise of periodic character (e.g. hum, screech)	- 5

**I-1 District**

<b>Frequency Ranges Containing Standard Octave Bands in Cycles Per Second</b>	<b>Octave Band Sound Pressure Level in Decibels</b>
0 - 74	79
75 - 149	74
150 - 299	66
300 - 599	59
600 - 1,199	53
1,200 - 2,399	47
2,400 - 4,800	41
Above 4,800	39

<b>Type of Operation or Noise</b>	<b>Correction in Decibels</b>
Daytime operation only	+ 5
Noise of impulsive character (e.g. hammering)	- 5
Noise of periodic character (e.g. hum, screech)	- 5

**Section 13.1.113 Vibration.**

No operation which creates vibrations which are readily detectable without the use of instruments at any point along lot lines shall be permitted.

**Section 13.1.114 Radioactivity.**

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

### **Section 13.1.115 Toxic or Noxious Matter.**

No discharge beyond lot lines of any toxic or noxious matter in such quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business, shall be permitted.

### **Section 13.1.116 Glare.**

No direct or reflected glare from any I-1 District shall be detectable from any Residential boundary.

### **Section 13.1.117 Particulate Emissions.**

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

(b) **Fly Ash.**

(1) No emission or fly ash in excess of the quantity specified in the following table shall be permitted:

<b>Heat in Fuel Burned (British Thermal Units Per Hour</b>	<b>Fly Ash: Rate of Emission (Lbs. per Hour</b>
1,000,000	1
100,000,000	100
400,000,000	330
1,000,000,000	750
2,000,000,000	1,365
3,000,000,000	1,850
4,000,000,000	2,260
5,000,000,000	2,640
6,000,000,000	2,950
7,000,000,000	3,200
8,000,000,000	3,410
10,000,000,000	3,750

(2) For heat content between any two (2) consecutive heat contents given in the Table, the fly ash limitation shall be as determined by interpolation.

(c) **Smoke.** No emission of smoke from any source, as measured on the Ringelmann Chart published by the United States Bureau of Mines, shall be permitted in excess of:

(1) In a Business District, a density described as Ringelmann No. 2, provided that a density equal to Ringelmann No. 3 may be emitted for not more than three (3) minutes in any fifteen (15) consecutive minutes.

- (2) In an Industrial District, a density described as Ringelmann No. 3.

**Section 13.1.118** Reserved for Future Use.

**Section 13.1.119** Reserved for Future Use.

**Section 13.1.120** Reserved for Future Use.

## Title 13 - Chapter 1

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# Article I: Signal Receiving Antennas; Wind Energy Systems; Wireless Telecommunications Systems

### Section 13.1.121 Signal Receiving Antennas.

- (a) **Purpose.** In order to secure uniformity and compliance with Federal Communications Commission rules (FCC 96-328) on over-the-air reception devices implementing Section 207 of the Telecommunications Act of 1996, this Section regulating the placement of signal receiving antennas and over-the-air reception devices is adopted to:
- (1) Provide uniform regulation where necessary of all signal receiving antenna devices;
  - (2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
  - (3) Preserve the integrity of historic preservation districts;
  - (4) Protect the public from injury from roof-mounted antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the roofmounted antenna; and
  - (5) Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.
- (b) **Definitions.**
- (1) For purposes of this Section, a "signal receiving antenna" is defined as any outdoor apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas and over-the-air reception devices, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.



- (2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his/her interest. The personal representative of at least one (1) owner shall be considered an owner.
- (c) **Limited Permit Requirement.**
- (1) No owner shall, within the City of Hillsboro, build, construct, use or place any type of signal receiving antenna or over-the-air reception device that is roof-mounted or proposed to be located in a designated historic preservation district until a permit shall have first been obtained from the Zoning Administrator.
- (2) Application for a signal receiving antenna permit when required under Subsection (c)(1) shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a sufficient set of mounting plans and specifications to allow a determination to be made that the device can be safely roof-mounted, or, in the case of a historic preservation district, can be located in such a manner as to not seriously detract from the historic character of the district. There is no fee for such permit. If such application meets the requirements of this Section, the application shall be approved.
- (d) **Exemption.** Signal receiving devices less than twenty-four (24) inches in diameter are exempt from the requirements of this Section, except for the requirements in Subsection (e)(1), (7), (9) and (12).
- (e) **Installation Standards.** Signal receiving antennas installed in any zoning district within the Village shall comply with the following provisions:
- (1) **Setbacks.**
- a. Any signal receiving antenna and its mounting post shall be located a minimum of five (5) feet from any side or rear property line. The purpose of setback regulations is to protect the aesthetics of the area and to preserve adequate access for emergency equipment and personnel.
- b. Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property following compliance with Subsection (c) above. For corner lots, a side yard is only a yard that does not face a street.
- c. If side yard, front yard or roof mounting is requested, the Zoning Board of Appeals shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.

- (2) **Mounting.** Signal receiving antennas attached to the roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.
- (3) **Diameter.** The diameter of the signal receiving antenna shall not exceed twelve (12) feet for the ground-mounted antenna and ten (10) feet for the roof-mounted antenna, except for stations used to provide community antenna television services.
- (4) **Height.** A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed fourteen (14) feet in height, as measured from the ground to the highest point of the dish.
- (5) **Roof-Mounted Antennas.**
  - a. In all residential zoning districts, roof-mounted antennas shall only be permitted subject to the provisions contained herein:
    - 1. Earth station dish antennas exceeding thirty-six (36) inches in diameter shall not be permitted on the roof, unless allowed under Subsection (c)(2) above.
    - 2. A roof-mounted dish antenna shall not extend higher than fifteen (15) feet above the highest point of the roof, unless allowed under Subsection (c)(2) above.
    - 3. In the commercial and industrial zoning districts, earth station dish antennas shall not extend more than twenty (20) feet above the height limit established for the district in which the structure is located.
- (f) **Wind Pressure.** All signal receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.
- (g) **Electrical Installations.** To safeguard public safety, electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code (COMM 16 and PSC 114, Wis. Adm. Code) and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal receiving antenna is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal receiving antennas shall be grounded against direct lightning strikes.
- (h) **Temporary Placement.** No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration

purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section.

- (i) **Advertising.** No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.
- (j) **Interference with Broadcasting.** Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (k) **Compliance with Federal Regulations.** The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder, including Federal Communications Commission rules.
- (l) **Aesthetic Considerations.** Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.
- (m) **Wireless Telecommunications Service.** A licensed commercial wireless telecommunications service including cellular, Personal Communication Services ("PCS"), Specialized Mobile Radio ("SMR"), Enhanced Specialized Mobilized Radio ("ESMR") paging, and similar services that are marketed to the general public.
- (n) **License Requirements; Fees.**
  - (1) No entity may construct, operate or continue to operate a Wireless Telecommunications System within the City without having been issued a Wireless Telecommunications Permit by the Zoning Administrator.
  - (2) It shall be a term and condition of any Wireless Telecommunications Permit issued in accordance herewith and part of the consideration supporting the issuance of such Wireless Telecommunications Permit that the Permittee shall pay to the City the sum of five percent (5%) of all Total Gross Revenue derived from the operation of Wireless Telecommunications System. Such payments shall be made annually within one hundred twenty (120) days after the close of the calendar year. All fee payments shall be subject to audit by the City and assessment or refund if the payment is found to be in error. In the event that an audit by the City results in an assessment of an additional payment to the City, such additional payment shall be subject to interest at the rate of one and one-half percent (1-1/2%) per month retroactive to the date such payment originally should have been made. Such payment shall be due and payable immediately and shall include the costs of conducting said audit.
  - (3) Structure Location Permit Fees.
    - a. All applicants for a Structure Location Permit shall pay to the City a permit request fee as set from time to time by the City Council per site.

- b. Any entity operating a Wireless Telecommunications System shall pay to the City an annual Structure Location Permit Fee as set by the City Council from time to time per site.
- (4) The request fee shall be paid to the Zoning Administrator at the time of making application for a Structure Location Permit. The annual Structure Location Permit Fee provided for in Subsection (c) above shall be paid to the Zoning Administrator annually on or before October 1 of each calendar year for the portion of the Wireless Telecommunications System within the City right-of-way on January 1 of that year, and a prorated license fee, based upon the calendar quarter in which the application is filed, shall be paid at the time of the application for a Structure Location Permit. Such quarterly fees are due on January 1, April 1, July 1 and September 1.
- (5) Fees not paid within ten (10) days after the due date shall incur interest at the rate of one and one-half percent (1-1/2%) per month from the date due until paid.
- (6) The acceptance of any fee payment required hereunder by City shall not be construed as an acknowledgment that the payment paid is the correct amount due, nor shall such acceptance of payment be construed as release of any claim which the City may have for additional sums due and payable.
- (o) **Enforcement.**
  - (1) It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this Section. In the event of any violation, the Common Council, a City enforcement official, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.
  - (2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1.1.7.

### **Section 13.1.122 Conditional Use Permits Required-Wind Energy Systems.**

- (a) **Approval Required.** No owner shall, within the City of Hillsboro, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (b) **Separate Permit Required for Each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (c) **Basis of Approval.** The Common Council shall base its determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the City and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the

established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.

- (d) **Definitions:** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

### **Section 13.1.123 Permit Procedure-Wind Energy Systems.**

- (a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the City of Hillsboro. The application shall include the following information:
- (1) The name and address of the applicant.
  - (2) The address of the property on which the system will be located.
  - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
  - (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
  - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
  - (6) Any other information which the Zoning Administrator, Common Council or Building Inspector may deem to be necessary to the proper review of the application.
  - (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Common Council.
- (b) **Hearing.** Upon referral of the application, the Common Council shall schedule a public hearing thereof following the procedures for conditional use permits in Article D.
- (c) **Determination.** Following public hearing and necessary study and investigation, the Common Council shall, as soon as practical, render its decision and a copy be made a permanent part of the Council's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for

- disapproval. The Common Council may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
- (d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Common Council following a public hearing thereon.
  - (e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Common Council and if, in the opinion of the Council, such change or addition constitutes a substantial alteration, a public hearing before the Common Council shall be required and notice thereof be given.
  - (f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

### **Section 13.1.124 Specific Requirements Regarding Wind Energy Systems.**

- (a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- (d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
- (e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion

system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

- (f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

### **Section 13.1.125 Wireless Telecommunications Systems.**

- (a) **Definitions.** For the purpose of this Chapter and any permit issued in accordance herewith, the following terms, phrases, words and their derivations shall have the meaning given herein unless otherwise specifically provided for in this Chapter or unless the context clearly indicates otherwise or unless such meaning would be inconsistent with the manifest intent of the City of Hillsboro:
  - (1) **Antenna.** Any structure or device for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni directional antennas, such as whip antennas.
  - (2) **City Engineer.** The City Engineer of the City of Hillsboro.
  - (3) **Entity.** Any individual, corporation, partnership, association or other legal entity which seeks to provide a Wireless Telecommunications System.
  - (4) **FCC.** The Federal Communication Commission or its legally appointed successor.
  - (5) **Permittee.** Any entity or its legal successor in interest who is issued a Wireless Telecommunications Permit and/or a Structure Location Permit in accordance with the provisions of this Chapter for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repair, rebuilding, or replacing of a Wireless Telecommunications System in the City.

- (6) **Street.** Any area established for vehicular or public access use of the entire width between the property lines of every way publicly maintained when any part thereof is open for public purposes. "Street" includes, but is not limited to, a highway, avenue, road, alley, right-of-way, lane, boulevard, concourse, bridge, tunnel, parkways and waterways.
  - (7) **Structure Location Permit.** A permit issued by the Zoning Administrator which authorizes the location of an Antenna or Tower at a particular geographic location.
  - (8) **Total Gross Revenue.** All cash, credits or other property of any kind or nature reported as revenue items to the Permittee's audited financial statements arising from or attributable to the sale, lease, rental or exchange of Wireless Telecommunications Services or the equipment by the Permittee within the City or in any way derived from the operation of its Wireless Telecommunications System, including, but not limited to, any interconnection between its system and the City and any system whatsoever. This shall be the basis for computing the fee imposed pursuant to Subsection (b)(2). Such sum shall not include any bad debts, deposits, promotional or vendor discounts or credits or sales, service, occupation or other excise tax to the extent that such taxes are charged separately from normal services charges and are remitted by the Permittee directly to the taxing authority.
  - (9) **Tower.** Any ground, building or roof-mounted pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting an antenna.
  - (10) **Wireless Telecommunications Permit.** The privilege granted by the City by which it authorizes an entity to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, build or replace a Wireless Telecommunications System. Any permit issued in accordance herewith shall be a non-exclusive permit.
- (b) **Conditions of Permit.**
- (1) Any Wireless Telecommunications Permit or Structure Location Permit issued by the City shall be a non-exclusive permit for the use of those areas within the City specified in the Wireless Telecommunications Permit or Structure Location Permit.
  - (2) Any Wireless Telecommunications Permit or Structure Location Permit issued by the City shall continue in full force and effect so long as the Permittee is in compliance with this Chapter, all applicable federal, state and local ordinances and regulations and the space occupied is not deemed to be needed by the City for any other public purpose.
  - (3) In the event any Wireless Telecommunications Permit or Structure Location Permit is revoked by the City, the Wireless Telecommunications System shall, at the sole option of the City, be removed within thirty (30) days at the sole expense of the Permittee.



- (c) **Permit Locations and Conditions.** Antennas and towers authorized by a Structure Location Permit shall comply with the following requirements:
- (1) A proposal for a new antenna or tower shall not be approved unless the City finds that the telecommunication equipment planned for a proposed antenna cannot be accommodated on an existing or approved tower within a one (1) mile radius of the proposed location due to one or more of the following reasons:
    - a. The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing unit or approved tower cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
    - b. The equipment would cause interference materially impacting the usability of other existing or approved equipment at the Tower as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
    - c. Existing or approved towers within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by qualified and licensed professional engineer.
    - d. Other unforeseen reasons make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower.
  - (2) Any proposed tower shall be designed in all respect to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height and for at least one (1) additional user if the tower is sixty (60) to one hundred (100) feet in height. Towers must be designed to allow for future rearrangements of antennas upon the tower and to accept antennas mounted at varying heights. All towers shall be erected and constructed in such a manner as to comply with all applicable City ordinances. All towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Towers shall not be illuminated by artificial means and shall not display strobe lights except if such lighting is specifically required by the Federal Aviation Administration or other state or federal authority. Any Permittee seeking to operate a Wireless Telecommunications Systems shall provide the City with a letter of intent signed by the tower owner committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet objectively reasonable terms and conditions for share use.
- (d) **Use of Streets and Pole Attachments.**
- (1) Before commencing construction of a Wireless Telecommunications System in, above, over, under, across, through or in any way connected with the streets, public ways or public places of the City, the permittee shall first obtain the written approval of, and all other necessary permits from, all appropriate City agencies,

- including, but not limited to, the Zoning Administrator and the Department of Public Works. Applicants for such approval shall be made in the form prescribed by the City Engineer.
- (2) Upon obtaining such written approval, the Permittee shall give the City Engineer and any other appropriate agency written notice within a reasonable time for proposed construction, but in no event shall such notice be given less than ten (10) days before commencement of such construction, except for emergency repairs of existing lines and cables.
  - (3) Any entity that submits a request for a Wireless Telecommunications Permit in accordance herewith shall include therein proposed agreements for the use of existing towers and antennas, if applicable, with the owner(s) of such facilities to be used or affected by the construction of the proposed Wireless Telecommunications System.
  - (4) It shall be unlawful for the Permittee or any other person or entity to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever without first obtaining approval to do so after proceeding in the manner described in Subsection (e)(1) and (2). Violation of this Subsection shall subject the Permittee to all penalties and remedies prescribed herein and to all other remedies, legal or equitable, which are available to the City.
  - (5) The Permittee shall restore any street or sidewalk it has disturbed in accordance with the provisions of the City's standard specifications for streets and sidewalks, and shall at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured, by or on account of its activities, to as good as the condition such property was immediately prior to the disturbance, damage or injury, or pay the fair market value of such property to its owner(s), or shall make such other repairs or restoration as outlined in the approved permit.
  - (6) The Permittee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such street or other public place, any of its property when required to do so by the City because of street or other public excavation, construction, repair, regrading or grading, traffic conditions, installation of sewers, drains, water pipes, City-owned power or signal lines, tracts, vacation or relocation of streets or any other type of construction or improvement of a public agency, or any type of improvement necessary for the public health, safety or welfare, or upon termination or expiration of the permit.
  - (7) The Permittee shall maintain all wires, conduits, cables or other real and personal property and facilities in good condition, order and repair. The Permittee shall provide indemnity insurance and performance bonds or demonstrate financial responsibility as shall comply with all rules and regulations issued by the City Engineer governing the construction and installation of Wireless Telecommunications Systems.

- (8) The Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the City and shall furnish, as soon as they are available, two (2) complete copies of such maps and records, including as-built drawings, to the City Engineer.
- (9) The Permittee shall comply with all rules and regulations issued by the City Engineer governing the construction and installation of Wireless Telecommunications Systems.
- (e) **Violation and Penalties.** Any entity who shall carry on or conduct any business or occupation or profession for which a Wireless Telecommunications Permit or a Structure Location Permit is required by this Section without first obtaining such a permit shall be considered to be in violation of this Section and, upon conviction, shall be punished as provided in Section 13.1.147. Each day any violation continues shall be deemed a separate, chargeable offense. No tower or antenna may be sited on residential property within the City. Placement of towers or antennas on such residentially-zoned property shall be a violation of this Section and shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) per day for each day that the tower or antenna is in place. Any other violation of this Section shall be punished as provided in Section 13.1.147.
- (f) **Restrictions on Assignment, Transfer, Sale and Subleasing.**
  - (1) The rights and privileges hereby granted are considered personal, and if the Permittee sells, assigns, transfers, leases or pledges such rights or privileges, or both, in whole or in part, either directly or by operation of the law, then the City shall have the right to terminate any and all permits issued hereunder for no other cause. The City shall terminate such permits in writing, by certified mail, return receipt requested, to the Permittee, and such termination shall be effective sixty (60) days from said date of mailing. The rights and privileges hereby granted shall not be mortgaged or encumbered without the prior consent and approval of the City given by written resolution.
  - (2) In addition to the provisions of termination provided for in Subsection (g)(1), the City shall have the right to terminate any and all permits issued hereunder upon any actual or pending change in, or transfer of, acquisition by any other party, or control of Permittee. The word "control" as used in this context is not limited to major stockholders, but includes actual working control in whatever manner exercised. The Permittee shall annually submit to the City a list of all shareholders and a list of all officers and directors. By acceptance of the Wireless Telecommunications Permit, the Permittee specifically agrees that any violation of this Section shall, at the City's option, cause any and all permits granted the Permittee under this Section to be revoked.
- (g) **Reports.**
  - (1) Entities requesting a Wireless Telecommunications Permit may be required by the City to submit evidence of financial capability to construct and operate a Wireless Telecommunications Permit. Such evidence may include, but is not limited to,

previous years' audited financial statements for the entity, individual financial statements of principals or investors or such other financial information as the City may desire.

- (2) The Permittee shall provide the City with a written statement from an independent certified public accountant within one hundred twenty (120) days after the close of the calendar year that such certified public accountant has reviewed the books and records of the Permittee as they related to any permits issued under this Section, and based upon such review, the certified public accountant believes the payment received by the City property reflects the fee due to the City with respect to this Section. The City shall have the right to reasonable inspection of the Permittee's books and records during normal business hours.

**Section 13.1.126**      Reserved for Future Use.

**Section 13.1.127**      Reserved for Future Use.

**Section 13.1.128**      Reserved for Future Use.

**Section 13.1.129**      Reserved for Future Use.

**Section 13.1.130**      Reserved for Future Use.

# Title 13 - Chapter 1

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## Article J: Accessory Uses and Structures; Fences

### Section 13.1.131 Accessory Uses or Structures.

- (a) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (b) **Placement Restrictions - Residential District.** An accessory use or structure in a residential district may be established subject to the following regulations:
  - (1) **Accessory Building Number Limits.** In any residential district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building may be placed on a lot.
  - (2) **Attached Accessory Building Limits.** No attached accessory building or structure shall exceed the height of the principal building or structure. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
  - (3) **Detached Accessory Buildings.** No detached accessory building (non-garages) shall occupy any portion of the required front yard, and no detached accessory building shall be larger than nine hundred (900) square feet or occupy more than twenty percent (20%) of the required rear yard (whichever is more restrictive), or be located within three (3) feet of any other accessory building or rear or side lot line or within five (5) feet of an alley. An accessory building shall not be nearer than ten (10) feet to the principal structure unless the applicable building code regulations in regard to one (1) hour fire resistive construction are complied with. In no event can the accessory uses or structures be forward of the front line of the principal structure.
  - (4) **Attached Garages.** Attached garages shall comply with the dimensional requirements of the zoning district in which located. Attached garages shall comply with the setback requirements applicable for principal structures on the lot.

- (5) **Detached Garages.** Detached garages are permitted in the rear yard and side yards only. They shall not exceed the area requirements found in the standards for each zoning district and the roof pitch shall not exceed the steepest pitch of the principal structure. The total lot coverage shall not exceed the total allowed as set forth in the zoning district where the garage will be located. Total lot coverage shall include all buildings located on the lot. Detached garages shall not be located nearer than three (3) feet to a rear or side yard or within five (5) feet of an alley.
- (c) **Use Restrictions-Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined herein and shall not be occupied as a dwelling unit.
- (d) **Placement Restrictions-Nonresidential Districts.** An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall not be nearer than three (3) feet to any side or rear lot line or within five (5) feet of an alley.
- (e) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three (3) feet to the side line of the adjacent structure.
- (f) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.
- (g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- (h) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:
- (1) That such private garage shall be located not less than five (5) feet from the front lot line;
  - (2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and
  - (3) That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.
- (i) **Outdoor Lighting.** Outdoor residential lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- (j) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.

- (k) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed three (3) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.
- (l) **Agricultural Structures.** Agricultural structures such as barns, silos and windmills shall not exceed in height twice their distance from the nearest lot line.

### **Section 13.1.132 Outside Storage of Firewood.**

- (a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.
- (b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.
- (c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of within fifteen (15) days and shall not be allowed to remain on the premises.
- (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- (e) Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one (1) time.

### **Section 13.1.133 Fences.**

- (a) **Fences Defined.** For the purpose of this Section, a "fence" is herein defined as an enclosed barrier consisting of wood, stone or metal intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.
- (b) **Fences Categorized.** Fences shall be categorized into five (5) classifications:
  - (1) **Boundary Fence.** A fence placed on the property line that joins the adjacent properties.
  - (2) **Protective Fence.** A fence constructed to enclose a hazard to the public health, safety and welfare.
  - (3) **Architectural or Aesthetic Fence.** A fence constructed to enhance the appearance of the structure or the landscape.

- (4) **Picket Fence.** A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.
- (c) **Height and Placement of Fences Regulated.**
  - (1) A fence or wall may be erected, placed or maintained along a lot line on residentially zoned property (or property primarily residential in use) or adjacent thereto to a height not exceeding six (6) feet above the ground level and be no closer than three (3) feet to a public right-of-way and two (2) feet from a sidewalk, except that no such fence or wall which is located in a required front yard shall exceed a height of three (3) feet. Where such lot line is adjacent to a non-residentially zoned property, there shall be an eight (8) foot limit on the height of a fence or wall along such lot line.
    - a. In order to provide adequate vision clearance on corner lots, no fence shall be erected or maintained within the triangular space formed by two (2) intersecting street, alley, or driveway (public or private) property lines and a line joining points on such property lines (or projections thereof) located less than:
      - 1. A minimum of twenty (20) feet from the intersection of the two street property lines;
      - 2. A minimum of fifteen (15) feet from the intersection of the two alley property lines; or
      - 3. A minimum of ten (10) feet from the intersection of the two driveway property lines.
    - b. Street or alley property lines are measured from the right-of-way or easement liens establishing such street or alley. Driveway lines are measured from the easement establishing such driveway, or, in the case of no easement, from the edge of the driveway surface.
  - (2) No fence or wall shall be erected, placed or maintained along a lot line on any nonresidentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.
- (d) **Setback for Residential Fences.** Fences in or adjacent to a residential property (or property primarily residential in use) must be setback a minimum of two (2) feet from the property line at the sideyard. Fences may be constructed alongside lot lines but shall not extend into the front setback area as extended to the side lot lines.
- (e) **Security Fences.** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed eight (8) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (f) **Prohibited Fences.**
  - (1) No fence shall be constructed which is a picket fence or which is of an otherwise dangerous condition, or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.



- (2) Although fences which conduct electricity or are designed to electrically shock are generally prohibited, such fences using smooth wire are allowed for the limited purpose of deer control.
- (3) No woven, twisted, welded or interlaced wire fence shall be located in a Residential District, unless such fencing is ornamental in character.
- (4) No wood-slat or plastic snow fence shall be permitted in a Residential District, except as a temporary use under Subsection (h).
- (g) **Fences to be Repaired.** All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.
- (h) **Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.
- (i) **Nonconforming Fences.** Any fence existing on the effective date of this Chapter and not in conformance with this Section may be maintained, but alterations, modifications or improvements of more than fifty percent (50%) of said fence shall require the owner to bring the fence into compliance with this Section.
- (j) **Fence Permit Required.** No person shall erect a fence in the City without first obtaining a fence permit from the City and paying a fee as set by the City Council from time to time. The applicant shall provide the Zoning Administrator with accurate design information for the proposed fence, including information on proposed materials to be used. Permits may only be issued for proposed fences complying with this Section.
- (k) **Location Determination.** The property owner erecting a fence is solely responsible for ensuring that the fence is located properly on his/her property.

### **Section 13.1.134 Swimming Pools.**

- (a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than one and one-half (1-1/2) feet located above or below the surface of ground elevation, having an area greater than one hundred fifty (150) square feet, used or intended to be used solely by the owner, operator or lessee thereof and his/her family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- (b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of fifteen (15) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.

- (c) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Zoning Administrator, the Zoning Administrator shall not issue a permit for construction as provided for in Subsection (b), unless the following construction requirements are observed:
- (1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and code and with any and all Ordinances of the City now in effect or hereafter enacted.
  - (2) All plumbing work shall be in accordance with all applicable Ordinances of the City and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.
  - (3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and City Ordinances regulating electrical installations.
- (d) **Setbacks and Other Requirements.**
- (1) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
  - (2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool be less than six (6) feet from any lot line.
- (e) **Location.** Swimming pools constructed in Residential Districts shall be located on the same lot as, and in either the rear or the side yard of, a principal building; however, they shall not be constructed in the front yard or in a required corner side yard in such districts. Swimming pools either open or enclosed shall be considered the same as accessory buildings for purposes of calculating the maximum area they may occupy in a required rear yard.

### **Section 13.1.135 Substitutes for Buildings Prohibited**

- (a) **Purpose.** The purpose of this section is to promote and enhance the health, comfort aesthetics, prosperity and overall positive quality growth of the City by providing uniform regulation of the use of semi-trailers and other similar conveyances as substitutes for principal and accessory buildings. The purpose is not to ban trailers that are being used to transport snowmobiles, sporting equipment, race cars or other recreational vehicles.

- (b) **No Substitute for Principal Building.** It shall be unlawful to place, erect or maintain within the City any shipping container, wagon, motor vehicle, semi-trailer, truck or similar conveyance as a substitute for a principal building except as provided for herein.
- (c) **Lands Zoned for Residential Use.** No person, firm or corporation shall place, erect, or maintain in the City upon any lands zoned residential any shipping container, wagon, motor vehicle, railroad car, trailer, semi-trailer, truck or similar conveyance which has not been manufactured for use exclusively for mobile recreational purposes as a substitute for an accessory building except for mobile units that contain medical diagnostic equipment for medical facilities.
- (d) **Construction Sites.** The provision of this subsection shall not prevent the use of shipping containers, trailers or similar conveyances to be used temporarily as substitutes for buildings on construction sites during construction provided, however, in no event shall such temporary substitutes for buildings remain thirty (30) days after cessation or completion of construction and shall be removed in any event within forty (40) days of occupation.
- (e) **Tents.** Tents shall not be used as substitutes for principal buildings or as accessory buildings.
- (f) **Temporary Retail Sales.** The provisions of this subsection shall not prevent the conducting of retail sales directly from semi-trailers or trucks for a period not to exceed seventy-two (72) consecutive hours per placement and no more than three (3) such placements in aggregate per address, location, or parcel in any one calendar year.
- (g) **Lands Zoned for Commercial or Industrial.**
  - (1) **Permit Required.** No person, firm, or corporation shall place, erect, maintain or use in the City upon lands zoned business and/or industrial any shipping container, wagon, motor vehicle, railroad car, trailer, semi-trailer, truck or similar conveyance for the purpose of storage, warehousing or as the location for the operation of any business without a permit. This section shall specifically not apply to the temporary parking of any of the above while engaged in the loading and unloading of cargo and merchandise.
  - (2) **Permit.** Upon receipt of the appropriate application as provided by the City, plus a non-refundable fee to be determined by the City Council, and amended from time to time by Resolution, the Building Inspector may issue a permit as required herein. The permit shall be displayed on the unit in a location readily viewable by the public. No permit shall be issued under this section unless the unit meets the safety and aesthetic requirements as determined by the building inspector.
  - (3) **Duration.** Each permit is valid from January 1st or the date of issuance until the following December 31st.
  - (4) **Maintenance Requirements.**
    - a. Vertical stacking of shipping containers or similar conveyances shall not be permitted.
    - b. Such shipping containers or similar conveyances shall be kept in good repair and condition so as not to constitute a nuisance or unsightly condition.

- (h) **Penalty.** Any person, firm, or corporation violating any provisions of this section shall be given written notice to correct any violations within fifteen (15) days. If in the event the written notice is not complied with a penalty as provided in Sec. 1.1.7 of this Code of Ordinances, shall be applied for each day the violation exists beyond the fifteenth day of the notice.

### **Section 13.1.136 Carports**

- (a) **Definition.** A carport is an accessory structure used for shielding one (1) passenger automobile, suitable for legal driving operation on highways in the State of Wisconsin, from partial effects of the weather elements.
- (b) **Zoning Districts.** A Carport is a permitted use in all residential districts.
- (c) **Permit and Fee Required.** No person, firm or corporation shall place, erect, maintain, or use a carport without first obtaining a permit from City Hall, approved by the Zoning Administrator. All carport permit applications must include the permit fee which is established by resolution of the Common Council from time to time.
- (d) **Construction Requirements.** All carports must be constructed of metal, aluminum, or a similar substance with a solid surface roof. Cloth, linen, canvass or any other soft, porous surfaces used for a roof are not permitted. The architecture, color, finish materials and grade of finish shall match the principal structure on the lot.
- (e) **Placement and Setbacks.** All setbacks indicated in section 13.1.131 apply to carports in this section.
- (h) Carports must be placed directly onto, but not permanently affixed to, a concrete or asphalt foundation which covers the entire length and width of the carport.
- (i) All carports must be located to the rear or extended rear line of the principal structure located upon the lot with alley access, or a fully paved and conforming driveway leading from the street in front of the lot's principal structure to the foundation the carport is covering.
- (j) The Zoning Administrator may approve a carport in the side yard, but under no circumstances may the carport protrude into the front yard past the principal building on the lot.
- (f) **Limitations.** No object other than a passenger automobile suitable for legal driving operations may be stored within the perimeter of the carport. No object may be placed on the roof of a carport or leaned against the support structure of the carport.
- (g) **Authority and Appeal.** The Zoning Administrator is vested with the authority for approving or denying all carport permit requests. A request for an appeal must be put in writing to the City Administrator. The City Plan Commission will hear all appeals and file a report on the Commission's findings to the Common Council. The Common Council will then act on the Plan Commission's report and render a final decision on the appeal.
- (h) **Penalty.** Any person, firm, or corporation violating any provisions of this section shall be given written notice to correct any violations within fifteen (15) days. If in the event the written notice is not complied with a penalty as provided in Sec. 1.1.7 of this Code of Ordinances, shall be applied for each day the violation exists beyond the fifteenth day of the notice.

**Section 13.1.137** Reserved for Future Use.

**Section 13.1.138** Reserved for Future Use.

**Section 13.1.139** Reserved for Future Use.

**Section 13.1.140** Reserved for Future Use.

**Section 13.1.141** Reserved for Future Use.

# Title 13 - Chapter 1

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## Article K: Administration

### Section 13.1.142 General Administrative System.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and action by the Common Council. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

### Section 13.1.143 Zoning Administrator.

The City Administrator shall serve as the Zoning Administrator and as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further:

- (a) Maintain records of all permits issued, inspections made, work approved and other official actions.
- (b) Record the lowest floor elevations of all structures erected, moved, altered or improved in the floodland districts.
- (c) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- (d) Inspect all structures, lands and waters as often as necessary to assure compliance with this Chapter.
- (e) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this Chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the City Attorney in a manner specified by him.
- (f) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
- (g) Request assistance and cooperation from the City Administrator, Building Inspector and City Attorney as deemed necessary.

## Section 13.1.144 Role of Specific City Officials in Zoning Administration.

- (a) **Common Council.** The Common Council, the governing body of the City, subject to the holding of public hearings by said Council, has ultimate authority to grant permitted conditional uses, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this Chapter.
- (b) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article M of this Chapter for detail provisions.

## Section 13.1.145 Zoning Permit.

- (a) **Zoning Permit Required.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit. The zoning permit may be issued as part of issuance of a building permit; there shall be a charge for only one (1) permit under such circumstances.
- (b) **Application.** Applications for a zoning permit shall be made to the Zoning Administrator and shall include the following where pertinent and necessary for proper review:
  - (1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
  - (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
  - (3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Zoning Administrator: the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards.
  - (4) Fee receipt from the City Clerk in an amount as set by the City Council from time to time per application.
  - (5) Additional information as may be required by the Zoning Administrator or Common Council.

- (c) **Action.**
  - (1) Subject to the requirements of Section 13.1.146, a zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days of application and the applicant shall post such permit in a conspicuous place at the site.
  - (2) The permit shall expire within six (6) months unless substantial work has commenced or within eighteen (18) months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration, the application shall reapply for a zoning permit before commencing work on the structure.
  - (3) Any permit issued in conflict with the provisions of this Chapter shall be null and void.

### **Section 13.1.146 Site Plan Approval.**

- (a) **Site Plan Approval.** All applications for Zoning Permits for any construction, reconstruction, expansion or conversion, except for one (1) and two (2) family residences in Residential Districts, shall require site plan approval by the Common Council in accordance with the requirements of this Section.
- (b) **Application.** The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Common Council or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.
- (c) **Administration.** The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Common Council within ten (10) days. The Common Council shall review the application and may refer the application and plans to any expert consultants selected by the Common Council to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within forty-five (45) days of its receipt of the application, the Common Council shall authorize the Zoning Administrator to issue or refuse a Zoning Permit.
- (d) **Requirements.** In acting on any site plan, the Common Council shall consider the following:
  - (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
  - (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.



- (3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
- (4) The landscaping and appearance of the completed site. The Common Council may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section.
- (e) **Effect on Municipal Services.** Before granting any site approval, the Common Council may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the City Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Common Council shall not issue final approval until the Common Council has entered into an agreement with the applicant regarding the development of such facilities.

### **Section 13.1.147 Violations and Penalties.**

- (a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Common Council, the Zoning Administrator or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.
- (b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Common Council, the Zoning Administrator or the City Attorney may institute appropriate legal action or proceedings.
- (c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1.1.7 of this Code of Ordinances.

**Section 13.1.148** Reserved for Future Use.

**Section 13.1.149** Reserved for Future Use.

**Section 13.1.150** Reserved for Future Use.

**Section 13.1.151** Reserved for Future Use.

# Title 13 - Chapter 1

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## Article L: Changes and Amendments to the Zoning Code

### Section 13.1.152 Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Common Council may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review of the Common Council.

### Section 13.1.153 Initiation of Changes or Amendments.

The Common Council, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this Chapter to the District boundaries hereby established or by amendments hereto in the accompanying zoning map made a part of this Chapter and/or the Supplementary Floodland Zoning Map to be made a part of this Chapter by reference.

### Section 13.1.154 Procedure for Changes or Amendments.

- (a) **Application.** Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Common Council and shall be filed with the Zoning Administrator, describe the premises to be rezoned or the portions of text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:
  - (1) Plot plan, drawn to a scale of one (1) inch equals one hundred (100) feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned.

- (2) Owners' names and addresses of all properties lying within one hundred (100) feet of the area proposed to be rezoned.
  - (3) Together with additional information as may be required by the Common Council.
- (b) **Hearings.**
- (1) The application may be referred to the Plan Commission, which shall review such application and make an advisory recommendation to the Common Council.
  - (2) The Common Council shall hold a public hearing at a time established by the Common Council upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes. At least ten (10) days prior, written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.
- (c) **Common Council's Action.** Following such hearing, the Common Council shall vote on the proposed ordinance effecting the proposed change or amendment.

### **Section 13.1.155 Protest.**

- (a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Common Council membership.
- (b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Common Council membership to adopt such amendment.

**Section 13.1.156** Reserved for Future Use.

**Section 13.1.157** Reserved for Future Use.

**Section 13.1.158** Reserved for Future Use.

**Section 13.1.159** Reserved for Future Use.

**Section 13.1.160** Reserved for Future Use.

**Section 13.1.161** Reserved for Future Use.

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## Article M: Appeals

### Section 13.1.162 Appeals to the Zoning Board of Appeals.

- (a) **Scope of Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Common Council. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appealed from was taken.
- (b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (c) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:
  - (1) **Errors.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.
  - (2) **Variances.** To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
  - (3) **Interpretations.** To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Common Council has made a review and recommendation.

- (4) **Substitutions.** To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Common Council has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
  - (5) **Unclassified Uses.** To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Common Council has made a review and recommendation.
  - (6) **Temporary Uses.** To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Common Council has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required:
  - (7) **Permits.** The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.
- (d) **Appeals Applications.** Parties intending to appeal an authorized matter to the Zoning Board of Appeals shall file an application satisfying the requirements of Section 13.1.165(b), along with a Twenty-five Dollar (\$25.00) application fee.

### **Section 13.1.163 Hearing on Appeals.**

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) days prior to the hearing of the fee owners of records of all land within one hundred (100) feet of any part of the subject building or premises involved in the appeal.

### **Section 13.1.164 Decisions of Board of Appeals.**

- (a) **Timeframe.** The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.
- (b) **Conditions.** Conditions may be placed upon any zoning permit ordered or authorized by this Board.

- (c) **Validity.** Variances, substitutions or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

## **Section 13.1.165 Variations.**

(a) **Purpose.**

- (1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
- (2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, ' where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection that the flood protection elevation for the particular area or permit standards lower than those required by state law.
- (3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

(b) **Application for Variation.** The application for variation shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:

- (1) Name and address of applicant and all abutting and opposite property owners of record.
- (2) Statement that the applicant is the owner or the authorized agent of the owner of the property and a statement on why this matter is being brought before the Zoning Board of Appeals.
- (3) Address and description of the property.
- (4) A site plan showing an accurate depiction of the property.
- (5) Additional information required by the City Engineer, Common Council, Zoning Board of Appeals or Zoning Administrator.
- (6) Fee shall be set by Resolution of the City Council and amended from time to time.

(c) **Public Hearing of Application.** The Board of Appeals shall conduct at least one (1) public hearing on the proposed variation. Notice of such hearing shall be given not more than thirty (30) days and not less than ten (10) days before the hearing in one (1) or more



of the newspapers in general circulation in the City, and shall give due notice to the parties in interest, the Zoning Administrator and the Common Council. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.

- (d) **Action of the Board.** For the Board to grant a variance, it must find that:
- (1) Denial of variation may result in hardship to the property owner due to physiological consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.
  - (2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
  - (3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
  - (4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
  - (5) The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code.
- (e) **Conditions.** The Common Council or the Board of Appeals on appeal may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

### **Section 13.1.166 Review by Court of Record.**

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the offices of the Board of Appeals.

**Section 13.1.167** Reserved for Future Use.

**Section 13.1.168** Reserved for Future Use.

**Section 13.1.169** Reserved for Future Use.

**Section 13.1.170** Reserved for Future Use.

**Section 13.1.171** Reserved for Future Use.

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## Article N: Mobile Home Parks

### Section 13.1.172 General Provisions.

- (a) **Statutory Authorization.** This Article is adopted pursuant to the authorization in Sec. 66.058, Wis. Stats.
- (b) **Purpose.** The purpose of this Article is to promote the public health, safety and general welfare of the community; to further the orderly layout and use of land in the City; to secure safety from fire, panic and other dangers; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewage, schools, parks, playgrounds, and other public utilities and facilities; to provide the best possible environment for human habitation in the City; and to encourage the most appropriate use of land throughout the City of Hillsboro.
- (c) **Definitions.** Whenever used in this Article, unless a different meaning clearly appears from the context, the following words and phrases shall have the following meanings:
  - (1) **Dependent Mobile Home.** A mobile home which does not have complete bathroom facilities.
  - (2) **Licensee.** Any person licensed to operate and maintain a mobile home park under this Article.
  - (3) **Lot.** A plot of ground within a mobile home park, designed and constructed for the accommodation of one (1) non-dependent mobile home.
  - (4) **Mobile Home.** Any structure, except a "manufactured home," which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, transportable in one or more sections, which is over four hundred (400) square feet in area excluding the hitch, built on a permanent chassis, and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in it. In computing square footage, length is multiplied by width. In this Subsection, "length" means the distance from the exterior of the front wall, that is, the wall nearest to the exterior of the draw bar and coupling mechanism, to the exterior of the rear wall at the opposite end of the home where the walls enclose living or other interior space, and that distance includes expandable rooms, but not bay windows, porches, draw bars, couplings, hitches, wall and roof extensions, or other attachments. In this Subsection, "width" means the distance from the exterior of one side wall to the exterior of the opposite side wall where the walls enclose living or other interior

- space, and that distance includes expandable rooms but not bay windows, porches, wall and roof extensions, or other attachments.
- (5) **Manufactured Home.** Any structure, which is, or was as originally constructed or designed, transportable by any motor vehicle upon a public highway in more than one section, which is over nine hundred (900) square feet in area excluding the hitch, which is designed to be used as a dwelling when connected to utilities, which is certified and labeled as a manufactured home under 42 U.S.C. Sections 5401 to 5426, which is set on an enclosed permanent concrete or cement block foundation on real estate owned by the home owner, and which is installed in accordance with the manufacturer's instructions.
- (6) **Non-dependent Mobile Home.** A mobile home equipped with complete bath and toilet facilities, and designed and equipped with sleeping, eating and living quarters for long-term residential occupancy.
- (7) **Occupant.** Any individual who resides in a mobile home.
- (8) **Outbuilding.** Any structure affixed to a lot, other than a mobile home.
- (9) **Owner.** The person who owns the mobile home park.
- (10) **Park or Mobile Home Park.** Any plot or plots of ground owned by a person or government upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of ownership and whether or not a charge is made for the accommodation.
- (11) **Person.** Any natural individual, firm, trust, partnership, association or corporation.
- (12) **Setback.** The minimum horizontal distance between:
- a. A lot line and the nearest point of a structure; or
  - b. A lot line and a park boundary line.
  - c. Distances shall be measured between the two (2) closest points. The eve or overhang of any structure shall be included in measuring the setback for such structure.
- (13) **Trailer.** Any coach, cabin, house care or other vehicle or structure intended for or capable of human dwelling or sleeping purposes, mounted upon wheels or supports, and capable of being moved by its own power or transported by another vehicle, which is not a mobile home as defined herein. The word "trailer" includes, but is not limited to, units used primarily for camping, touring, or recreational purposes.
- (d) **State Statutes Adopted.** The provisions of Sec. 66.0435 and 710.15, Wis. Stats., and the provisions of COMM 21.40, COMM 26, and ATCP 125, Wis. Adm. Code, including any future revisions or amendments thereto, describing and defining regulations with respect to mobile homes and mobile home parks, are hereby adopted and, by reference, made a part of this Article as if fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this Article.

- (e) **Compliance.**
  - (1) **Mobile Homes.** No mobile home may be placed, parked, stored or occupied within the City except in compliance with this Article and except in a licensed mobile home park.
  - (2) **Parks.** No mobile home park may be established, operated, maintained, enlarged or expanded except in compliance with this Article.
  - (3) **Trailers.** No trailers may be placed, parked, stored or occupied within the City except in compliance with this Article.
- (f) **Exceptions.**
  - (1) **Emergencies.** Emergency or temporary stopping or parking of a trailer or mobile home is permitted on any street, alley, or highway, for not longer than one (1) hour, subject to any other and further prohibitions, regulations or limitations imposed by the traffic or parking ordinances for that street, alley or highway.
  - (2) **Existing Homes.** A mobile home placed on land outside of a mobile home park on the effective date of this Article shall be permitted to remain on said land, subject to the following conditions:
    - a. The mobile home may not be extended, enlarged, reconstructed, moved or structurally altered, or replaced with a different mobile home, unless the Zoning Board of Appeals determines that such action
      - 1. Will be an aesthetic improvement to the mobile home; and
      - 2. Will be in fundamental harmony with surrounding uses.
    - b. In the event the existing mobile home is damaged by fire, explosion, flood or other peril to the extent of more than fifty percent (50 %) of its current value, it shall not be reconstructed or repaired, but instead, shall be demolished and removed.
- (g) **Businesses.** This Article shall not apply to any business engaged in the sale or service of mobile homes, provided the mobile homes located at such business are unoccupied and are only temporarily placed, and further provided that said business complies with the zoning requirements of this Chapter.
- (h) **Trailers.** The parking of only one trailer in an accessory private garage or building, or in a driveway, is permitted, provided no living quarters shall be maintained in excess of two (2) weeks during the calendar year, and further provided no business is practiced in said trailer while it is so parked or stored.
- (i) **Construction.** A mobile home or trailer may be used as a temporary office by a contractor person who lives or sleeps in the mobile home or trailer.
- (j) **Club Parking.** Any club or group of persons wishing to park trailers within the City for a specified period of time shall apply to the City for a permit, which shall be granted in the discretion of the Common Council.
- (k) **Manufactured Homes.** Manufactured homes may be placed upon real estate outside of mobile home parks, provided they satisfy all other requirements of this Chapter.
- (l) **Variances.** A variance from any term of this Article may be applied for and granted pursuant to the rules and procedures set forth in this Chapter.

## Section 13.1.173 Licenses and Fees.

- (a) **Licenses Required.**
- (1) ***New Parks.*** It shall be unlawful for any person to construct, operate, own or maintain within the City any mobile home park unless such person first obtains a license therefor pursuant to the procedures described below.
  - (2) ***Additions to Park.*** It shall be unlawful for any person to enlarge or construct any addition to any mobile home park within the City unless such person first obtains a license therefor pursuant to the procedures described below.
- (b) **Term of License.** The term of each license shall be for one (1) year, unless sooner revoked, and shall expire on June 30th of each year.
- (c) **Contents of License.** Licenses for mobile home parks shall contain the following information:
- (1) Name, address and telephone number of the owner and manager (if any) of the park.
  - (2) The number of authorized lots in the park.
  - (3) Reference to the approved original application on file with the City Clerk.
  - (4) Statement that the park plan may not be changed, altered, enlarged or expanded without first obtaining City approval.
- (d) **Termination of License.** Any license granted under this Article may be revoked or suspended, pursuant to the procedures set forth in Sec. 66.0435(2), Wis. Stats., for any violation of one or more of the terms or conditions of this Article.
- (e) **Transfer of License.** Upon application to the City Clerk and upon review and certification by the Zoning Administrator that the entire park is in full compliance with the then-existing license, a new license may be transferred to a new owner.
- (f) **Sale of Lots.** The sale or conveyance of individual lots or any part of the park is prohibited. The sale or conveyance of any lot or part of a park shall automatically terminate and revoke the park's license.
- (g) **Fees.**
- (1) ***Original Application Fee.*** A nonrefundable fee as set by the City Council from time to time shall be submitted with each original application for a new mobile home park. A nonrefundable fee as set by the City Council from time to time shall be submitted with each application for an extension of an existing mobile home park.
  - (2) ***Annual License Fee.*** An annual per lot license fee as set by the City Council, with a minimum of One Hundred Dollars (\$100.00), shall be paid by each licensee. This non-refundable fee shall be submitted with each application for renewal.
  - (3) ***Transfer of License Fee.*** A fee as set by the City Council from time to time shall be paid with each application for a transfer of license.
  - (4) ***Parking Fee.*** Pursuant to Sec. 66.0435(3), Wis. Stats., each mobile home park operator shall collect the monthly parking fee from each mobile home owner and

remit the same to the City Clerk. The owner of a mobile home parked outside of a licensed park shall remit his/her monthly fee directly to the City Clerk unless the mobile home is assessed as part of the real estate, and then he/she shall pay no monthly fee.

## **Section 13.1.174 Original Applications.**

- (a) **Original License Applications.** In addition to the requirements of Sec. 66.0435(5), Wis. Stats., each person who wishes to construct a new mobile home park or who wishes to enlarge or expand an existing mobile home park or who wishes to redesign any part of an existing park, shall prepare and file an original application and fee with the City Clerk.
- (b) **Original Application Information.** Each original application shall contain the following information:
  - (1) Name, address and telephone number of each owner and developer of the proposed mobile home park or proposed extension.
  - (2) The legal description and acreage of the proposed park or extension.
  - (3) Three (3) copies of preliminary site plans drawn to scale showing the location of the following:
    - a. Each mobile home lot.
    - b. All roadways, sidewalks and parking sites.
    - c. Recreation areas and facilities.
    - d. Storage areas.
    - e. Underground utilities, including cable TV, if provided.
    - f. Street lighting.
    - g. Topography and drainage.
  - (4) Landscaping plans and specifications.
  - (5) Road construction plans, specifications and elevations.
  - (6) An explanation of how garbage and refuse will be disposed.
  - (7) An explanation of the staging and time of the proposed construction.
  - (8) The names and addresses of all persons who own property located within one hundred (100) feet of the proposed park or extension.
  - (9) Any additional information necessary to show compliance with this Chapter.
  - (10) Any additional information which the Plan Commission may request.
- (c) **Review.** Upon receipt of an original application, the City Clerk shall refer the application to the Plan Commission. The Plan Commission shall review the application, the site, existing and proposed structures, site plans, neighboring uses, highway access, traffic patterns, drainage, sewerage and water systems, and all other factors deemed relevant to the future use and operation of the proposed park or extension.
- (d) **Hearings.** After study and review of the application and other facts, the Plan Commission shall hold a public hearing within a reasonable period of time, but in no event later than seven (7) weeks after submission of the application to the Clerk. The

Plan Commission shall give public notice of the hearing by publishing a Class 2 Notice under Ch. 985, Wis. Stats., specifying the date, time, place and subject matter of the hearing. A notice of the hearing shall be mailed at least ten (10) days prior to the public hearing, by certified mail, to the applicant and to the owners of all property located within one hundred (100) feet of the proposed park. This notice and hearing may be combined with any notice and hearing required for the granting of a conditional use permit or extension.

(e) **Tentative Approval.**

- (1) Upon consideration of the application and the standards applicable thereto, and after the conducting of the public hearing, the Plan Commission shall determine whether the proposed plan shall be tentatively approved and, based upon such determination, shall either issue or refuse to issue tentative approval.
- (2) If the Plan Commission refuses to issue tentative approval, it shall provide the applicant with a brief written statement of the reasons for the refusal. The Plan Commission may make recommendations which, if included in a new application, might permit the tentative approval of the application.
- (3) If the Plan Commission issues its tentative approval, it may attach various conditions to the approval, in addition to those conditions required by this Article, which it determines are necessary to further the purposes of this Article. Such conditions may include, but are not limited to, the following: erosion controls, increased setbacks, additional landscaping and planting, changes in parking areas, lot modifications, special easements, etc.
- (4) Tentative approval shall be effective for a maximum period of twelve (12) months, unless upon application by the owner, the Plan Commission grants an extension of time. Within said twelve (12) month period, construction must commence on the proposed park or park extension.

(f) **Final Approval.**

- (1) Upon completion of construction of the park or park extension pursuant to the terms and conditions of the tentative approval, the owner shall notify the City Clerk of said completion.
- (2) Upon receipt of the completion notice, the City Clerk shall refer the matter to the Zoning Administrator, who shall conduct a review and inspection of the park to determine compliance with the plans, specifications and conditions of the tentative approval.
- (3) If the park or park extension has been constructed in accordance with the tentative approval, the Zoning Administrator shall certify the same to the City Clerk. If the construction of the park or park extension is not in accordance with any part of the tentative approval, the Zoning Administrator shall provide a brief written statement to the owner of those items which must be completed or performed to comply with the tentative approval and the Zoning Administrator shall withhold his/her certification of compliance until such items have been completed or performed.



- (g) **Issuance of License.** Upon receipt of the certification from the Zoning Administrator that the park or park extension has been satisfactorily completed, the City Clerk shall issue a mobile home park license or, in the case of an extension of an existing mobile home park, shall issue an amendment to the existing license.

### **Section 13.1.175 Renewal Applications.**

- (a) **Application Form.** Pursuant to Sec. 66.0435(6), Wis. Stats., an application for renewal shall be submitted by each licensee on or before June 1 of each year, on forms furnished by the City.
- (b) **Review.** Upon receipt of an application for renewal, the City Clerk shall refer the application to the Zoning Administrator, who shall inspect the mobile home park to determine compliance with this Article and all other restrictions or conditions placed on said park by previous City action. Upon completion of his/her inspection, the Zoning Administrator shall either provide a certification to the City Clerk that the mobile home park is in compliance, or provide the licensee and the City Clerk with a brief written description of the violations found.
- (c) **Council Approval.**
  - (1) Upon receipt of the report from the Zoning Administrator, the City Clerk shall refer the report to the Common Council for action.
  - (2) If the Zoning Administrator has found no violations, the Common Council shall approve the renewal of the license. If the Zoning Administrator has found violations, the Council can either approve the license renewal upon the condition that the violations be corrected within a stated time, or the Common Council can schedule hearings on the revocation or suspension of the license pursuant to the procedures authorized by Sec. 66.0435, Wis. Stats. The Common Council shall act on the renewal on or before June 30th. Nothing herein shall limit or prevent the commencement of legal proceedings pursuant to Section 13.1.177 below for violation of this Article.

### **Section 13.1.176 Design, Construction and Maintenance Standards.**

- (a) **Standards Adopted.** The following design and construction standards shall apply to the design and construction of any new park, and to the design and construction of any enlargement of or addition to any existing park, and to the redesign or reconstruction of any part of an existing park after the original effective date of this Article. These standards shall be additional to all state statutes, codes and regulations.
- (b) **Unique Design.** Although the following standards are mandatory, nothing herein should be construed to prevent or limit the submission of unique, innovative designs to the Plan

Commission. Such designs are encouraged and, if approved by the Plan Commission, can be permitted through the variance procedure of Section 13.1.165.

- (c) **Park Size.** The minimum size of any mobile home park shall be twenty (20) acres.
- (d) **Lot Size.**
  - (1) Lot dimensions and area shall not be less than as follows:
    - a. Minimum width: Fifty (50) feet.
    - b. Minimum depth: One hundred (100) feet.
    - c. Minimum area: Five thousand (5,000) square feet.
  - (2) All lots shall abut on a street within the park for at least thirty (30) feet and shall have unobstructed access to said street. No lot shall abut on a City street, right-of-way, or property line of the park.
  - (3) Corner lots located on the inside of any corner shall be of extra width sufficient to maintain front setback requirements on both street.
  - (4) No mobile home unit shall be parked outside of a designated lot.
  - (5) The corners of each lot shall be clearly staked so that an occupant can easily determine his/her lot boundaries.
- (e) **Mobile Home Size.** The minimum width of each mobile home shall be fourteen (14) feet.
- (f) **Setbacks.** The following setback requirements shall apply to each mobile home on each lot:
  - (1) The minimum front yard setback shall be twenty (20) feet. All yards which abut a street are "front yards".
  - (2) The minimum rear yard setback shall be ten (10) feet.
  - (3) The minimum side yard setback shall be ten (10) feet.
- (g) **Streets.**
  - (1) Each street and parking area shall be hard surfaced.
  - (2) A streetlight shall be placed at each street corner within the park, at each entrance to the park, and at such other places along the street so that the distance between each light does not exceed two hundred twenty-five (225) feet as measured down the center line of the street.
  - (3) All streets shall be maintained and plowed by the owner.
- (h) **Parking.**
  - (1) Each lot shall have an off-street parking space having either:
    - a. A minimum width of twenty (20) feet and a minimum depth of twenty-four (24) feet; or
    - b. A minimum width of twelve (12) feet and a minimum depth of forty (40) feet.
  - (2) If parking on any street is prohibited within the park, an additional parking area within the park shall be established containing one (1) parking space for every five (5) lots (or fraction thereof) which abut on a street where parking is prohibited.
  - (3) No parking shall be permitted on lot yards.
- (i) **Walkways.**

- (1) Walkways not less than two (2) feet wide and comprised of a hard surface shall be provided from the parking area of each lot up to the entrance of the mobile home.
  - (2) Walkways shall be installed on each lot within one (1) month of the occupancy of the lot, except in those cases where winter weather conditions require a longer period.
- (j) **Utilities.**
- (1) Water, sewer, natural gas and electrical utilities shall be provided by the owner to each lot. Propane tanks shall not be permitted.
  - (2) All utilities, including telephone and cable television, shall be placed underground.
  - (3) Each lot shall be furnished with a minimum two hundred (200) amp electrical service.
  - (4) The owner shall install one large water meter for the entire park contained in a manhole. The design and construction of the park water distribution system, the water meters and the manhole shall meet such requirements as may be established by the City Administrator.
  - (5) The park owner shall be liable for the payment of all City utilities.
  - (6) The park owner shall be responsible for the repair and maintenance of all utilities (including water and sewer) with the park.
- (k) **Open Areas.**
- (1) Each park shall have one or more designated open areas which shall be easily accessible to all park residents, which shall not include a street or the park boundary, and which shall be so located as to be free of traffic hazards.
  - (2) The total size of such open areas shall be a minimum of five percent (5%) of the total land area of the park.
  - (3) For every twenty-five (25) lots in the park, there shall be at least one open area in the park having a minimum size of fifty (50) feet by one hundred (100) feet.
- (l) **Landscaping.**
- (1) Each lot shall be planted with at least two (2) deciduous trees.
  - (2) All lots shall be sodded or planted in grass within two (2) months of occupancy of the lot, except where winter weather conditions require a longer period.
  - (3) Trees, grass and landscape material shall be properly maintained and replaced to conform to the approved landscape plans and specifications.
- (m) **Park Boundary.**
- (1) A buffer zone shall be placed around the entire perimeter of the park. Each lot within the park shall be set back from the park perimeter a minimum of fifteen (15) feet.
  - (2) A visual screen consisting of compact hedges, decorative fences, coniferous trees and shrubs, and other landscape materials approved by the Plan Commission, shall be installed and maintained in the fifteen (15) feet buffer zone described in Subsection (m)(1) above, to substantially inhibit eye-level vision of the interior of the park from any adjacent street or property.

- (3) The fifteen (15) foot buffer zone described in Subsection (1) above shall be maintained by the owner free of rubbish, debris, weeds and paper.
  
- (n) **Mobile Home Installation.**
  - (1) Each mobile home shall be placed and leveled on stands (also known as blocking piers) consisting of a sixteen inch by sixteen inch by four inch (16" x 16" x 4") deep concrete solid base, with a double tier of eight (8) inch cement core blocks on the cement base or gravel, and with wood shimming resting on the concrete blocks.
  - (2) Each mobile home shall be secured with tie-downs and anchoring equipment.
  - (3) All mobile home units shall have skirts around the entire mobile home made of plastic, fiberglass, aluminum, metal or vinyl, and shall be of a permanent color or painted to match the mobile home so as to enhance the general appearance thereof
  
- (o) **Outbuildings.**
  - (1) One (1) outbuilding may be placed on each lot.
  - (2) The following setback requirements shall apply to each outbuilding on each lot.
    - a. The minimum front yard setback shall be twenty (20) feet.
    - b. The minimum rear yard setback shall be three (3) feet.
    - c. The minimum side yard setback shall be three (3) feet.
  - (3) All outbuildings, except for automobile garages, shall be located in the rear one-half (1/2) of the lot and shall not exceed one hundred (100) square feet and ten (10) feet in height.
  - (4) All outbuildings which are automobile garages shall not exceed two hundred eighty (280) square feet and the height of the mobile home to which it relates.
  
- (p) **Building Additions.** No structure may be attached or added to any mobile home, except as follows:
  - 1. The proposed design and construction standards shall be submitted to the Plan Commission before commencement of work on the structure.
  - 2. The Plan Commission shall review and approve the project only if:
    - a. The structure is designed to architecturally blend with the mobile home;
    - b. The structure is designed to be safe.
  - (2) If the Plan Commission approves a project, such approval shall be placed in writing and given to the Clerk, who shall place it in the mobile home park file.
  - (3) If the Plan Commission approves a project, it shall be completed within sixty (60) days from the date of the approval.
  
- (q) **Other Codes.** All plumbing, electrical, building and other work on or at any park shall be performed in compliance with all applicable City ordinances and state statutes, codes and regulations. Any license granted under this Article shall not constitute a waiver of limitation of any other applicable ordinance, statute, code or regulation.

## **Section 13.1.177 Enforcement and Penalties.**

- (a) **Violation Defined.** Any act or omission by any person which fails to fully comply with any provision of this Article shall be deemed a violation. Each day a violation exists shall constitute a separate offense, and the prosecution of two (2) or more offenses by the same violator may be joined in one action.
- (b) **Prosecution.** Upon learning of a violation, the Zoning Administrator or other City official shall do one or more of the following:
  - (1) Cause the violator to be served with a notice, informing the violator of the nature of the violation and giving the violator a date by which the violation must be abated or corrected; or
  - (2) Refer the violation to the City Plan Commission, which may investigate the violation, hold meetings with the violator, and take whatever steps it feels necessary and prudent to abate or correct the violation; provided, however, the powers of the Plan Commission shall not exceed the powers granted herein to the Plan Commission; or
  - (3) Refer the violation to the City Attorney for prosecution.
- (c) **General Penalties.** Except as specifically limited herein, the penalties set forth in Subsection (b) shall apply to violations of this Article.
- (d) **Special Penalties.** If any person forgets or fails to obtain a license, a variance or a conditional use, under conditions requiring the same, and if such person subsequently cures this violation by obtaining a license, a variance or a conditional use, then such person shall pay (in addition to the original application fee) a forfeiture equal to two (2) times the original fee for such license, variance, or conditional use. Said forfeiture shall be payable within ten (10) days of the issuance of the license, variance or conditional use, and in the event said forfeiture is not paid within ten (10) days, the failure to pay shall constitute a separate violation and the violator shall become subject to the general penalties set forth above.
- (e) **Citation Method of Enforcement.** The citation method of enforcement may be used for all violations of this Article. Citations for violations of this Article may be issued only by the Police Department, the Zoning Administrator, the City Plan Commission, or the Building Inspector.

**Section 13.1.178** Reserved for Future Use.

**Section 13.1.179** Reserved for Future Use.

**Section 13.1.180** Reserved for Future Use.

**Section 13.1.181** Reserved for Future Use.

**Section 13.1.182** Reserved for Future Use.

**Section 13.1.183** Reserved for Future Use.

**Section 13.1.184** Reserved for Future Use.

**Section 13.1.185** Reserved for Future Use.

**Section 13.1.186** Reserved for Future Use.

**Section 13.1.187** Reserved for Future Use.

**Section 13.1.188** Reserved for Future Use.

**Section 13.1.189** Reserved for Future Use.

**Section 13.1.190** Reserved for Future Use.

**Section 13.1.191** Reserved for Future Use.

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## Article O: Definitions

### Section 13.1.192 Definitions.

- (a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a Section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.
- (1) **Accessory Use or Structure.** A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.
  - (2) **Advertising Sign, Outdoor.** A structural poster panel or painted sign, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
  - (3) **Advertising Structure, Outdoor.** Anything constructed or erected, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
  - (4) **Alley.** A special public right-of-way affording only secondary access to abutting properties.
  - (5) **Apartment.** A portion of a residential or commercial building used as a separate housing unit.
  - (6) **Apartment House.** See "Dwelling, Multiple."
  - (7) **Arterial Street.** A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.
  - (8) **Authority.** A person, committee, or board to whom the power to issue a permit, or make a determination, decision, or judgment has been delegated.
  - (9) **Basement or Cellar.** A story partly underground but having at least one-half (1/2) of its height, or five (5) or more feet, below the mean level of the adjoining ground. See COMM Chapters 20, 21 and 22, Wis. Adm. Code.
  - (10) **Boardinghouse.** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4)

- or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.
- (11) **Building.** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.
- (12) **Building, Alterations Of.** Any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.
- (13) **Building Area.** The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways and unfinished attics.
- (14) **Building, Front Line Of.** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
- (15) **Building, Height Of.** The vertical distance from the highest point of a finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge for gable, hip or gambrel roofs.
- (16) **Building, Principal.** A building in which the principal use of the lot on which it is located is conducted.
- (17) **Business.** An occupation, employment, or enterprise which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.
- (18) **Carport.** See "Garage."
- (19) **Clinic.** A building used by a group of doctors for the medical examination or treatment of persons on an outpatient or nonboarding basis only.
- (20) **Clothing Repair Shops.** Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but not employing over five (5) persons.
- (21) **Clothing Stores.** Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery and millinery shops.
- (22) **Club.** A building owned, leased or hired by a non-profit association of persons who are bona fide members, the use of which is restricted to said members and their guests.
- (23) **Commercial Feed Lot.** Confinement of two hundred (200) or more head of livestock on a farm or other site for the purpose of intensive feeding prior to slaughter or shipment in such concentration that ground vegetation is substantially destroyed where:
- a. The farm or site does not produce a minimum of sixty percent (60%) of the feed necessary to sustain the herd.
  - b. The farm or site is insufficient in size to provide for the disposal of all animal wastes in a manner that they will not run off, seep, percolate, or wash into surface or subsurface waters.



- (24) **Community Living Arrangement.** The following facilities licensed or operated, or permitted under the authority of Wis. Stats.: Child welfare agencies under Sec. 48.60, Wis. Stats., group foster homes for children under Sec. 48.67, Wis. Stats., and community-based residential facilities under Sec. 50.01, Wis. Stats.; but does not include nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformity with applicable sections of the Wis. Stats., including Secs. 46.03(22), 59.69(15), 62.23(7)(i), and 62.23(7a), and amendments thereto, and also the Wis. Adm. Code.
- (25) **Conditional Uses.** Uses of a special nature as to make impractical their predetermination as a principal use in a district, allowed only under conditions specified under this Chapter.
- (26) **Conforming Use.** Any lawful use of a building or lot which complies with the provisions of this Chapter.
- (27) **Court.** An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two (2) sides by the building.
- (28) **Curb Break.** Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.
- (29) **Curb Level.** The level of the established curb in the front of the building measured at the center of such front.
- (30) **Day Care Center.** A place or home which provides care for four (4) or more children under the age of seven (7) years for less than twenty-four (24) hours a day and is licensed as provided for in Sec. 48.65, Wis. Stats.
- (31) **Development.** Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to building, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.
- (32) **District.** A part or parts of the City for which the regulations of this Chapter governing the use and location of land and buildings are uniform.
- (33) **Double Wide Mobile Home.** A double wide mobile home is a mobile home consisting of two (2) mobile home sections combined horizontally at the site while still retaining their individual chassis for possible future movement.
- (34) **Drive-in Restaurant.** An establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises.
- (35) **Dwelling.** A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.
- (36) **Dwelling, Efficiency.** A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

- (37) **Dwelling, One-Family.** A detached building designed, arranged or used for and occupied exclusively by one (1) family, whether attached, detached or semi-attached. Shall include specially designed buildings covered by earth and manufactured homes.
- (38) **Dwelling, Two-Family.** A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
- (39) **Dwelling, Multiple.** A building or portion thereof used or designated as a residence for three (3) or more families as separate housekeeping units, including apartments, attached townhouses and condominiums, with the number of families in residence not to exceed the number of dwelling units provided.
- (40) **Dwelling Unit.** A building or portion thereof used exclusively for human habitation, including single-family, two-family and multi-family dwellings, but not including hotels, motels or lodging houses.
- (41) **Emergency Shelters.** Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.
- (42) **Essential Services.** Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.
- (43) **Family.** One (1) or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family, or not to exceed more than four (4) persons if not related by blood, marriage, adoption or guardianship. A person shall be considered to be related for the purpose of this Chapter if he is dwelling for the purpose of adoption or for a foster care program.
- (44) **Farm.** Land consisting of five (5) acres or more on which produce, crops, livestock or flowers are grown primarily for off-premise consumption, use or sale.
- (45) **Floor Area.** The sum of the gross horizontal areas of the several floors of a dwelling unit, exclusive of porches, balconies, garages, basements and cellars, measured from the exterior faces of the exterior walls or from the center lines of walls or portions separating dwelling units. For uses other than residential, the floor area shall be measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating such uses, and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.

- (46) **Foster Family Home.** The primary domicile of a foster parent which is for four (4) or fewer foster children and which is licensed under Sec. 48.62, Wis. Stats., and amendments thereto.
- (47) **Frontage.** The smallest dimension of a lot abutting a public street measured along the street line.
- (48) **Garage.** A building or portion thereof used exclusively for parking or temporary storage of self-propelled vehicles.
- (49) **Garage, Public.** A building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.
- (50) **Gasoline Station.** Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.
- (51) **Gift Stores.** Retail stores where items such as art, antiques, jewelry, books, and notions are sold.
- (52) **Group Foster Home.** Any facility operated by a person required to be licensed by the State of Wisconsin under Sec. 48.62, Wis. Stats., for the care and maintenance of five (5) to eight (8) foster children.
- (53) **Hardware Stores.** Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods and paints are sold.
- (54) **Home Occupation.** Any business or profession carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building thereto and meeting the standards in Section 13.1.63.
- (55) **Hotel.** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.
- (56) **House Trailer.** A nonself-propelled vehicle, containing living or sleeping accommodations which is designed and used for highway travel.
- (57) **Junk Yard.** An open space where waste, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A "junk yard" also includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.
- (58) **Loading Area.** A completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley
- (59) **Lodging House.** See "Boardinghouse."
- (60) **Lot.** A parcel of land having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal structure or

- use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter.
- (61) **Lot, Corner.** A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less, measured on the lot side.
- (62) **Lot, Interior.** A lot situated on a single street which is bounded by adjacent lots along each of its other lines.
- (63) **Lot Lines and Area.** The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (64) **Lot Lines, Front.** Any property line separating a lot from any public or private street, but not including alleys. In the case of corner lots, the primary front lot line is that property line most parallel to the street from which access is gained; the secondary front lot line is the other lot line with street frontage. In the case of a double frontage lot, there is one (1) front lot line that is the property line most parallel to the street from which access is gained.
- (65) **Lot Line, Rear.** The lot line which is opposite and most distant from the front line. In the case of a four (4) sided lot, the owner shall select any lot line, other than one (1) of the front lot lines, to be the rear lot line. In the case of a double frontage lot, the rear lot line shall be most opposite the front lot line along the street frontage for which access is not gained. The rear lot line of any irregularly shaped lot or triangular lot shall be a line within the lot which is ten (10) feet long and most parallel to and distant from the front lot line. For a triangular lot which is also a corner lot, there shall be no rear lot line. Irregularly shaped lots and corner, triangular lots are illustrated on the following page.
- (66) **Lot Line, Side.** The lot line that is not a front lot line or a rear lot line.
- (67) **Lot Depth.** The least distance from the rear lot line to the front lot line.
- (68) **Lot of Record.** A platted lot of a recorded subdivision, certified survey map, or parcel of land for which the deed, prior to the adoption of this Chapter, is on record with the Chippewa County Register of Deeds and which exists as described therein.
- (69) **Lot, Reversed Corner.** A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
- (70) **Lot, Substandard.** A parcel of land held in separate ownership having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Chapter.
- (71) **Lot, Through.** A lot having a pair of opposite lot lines along two (2) or more parallel public streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.
- (72) **Lot Width.** The minimum horizontal distance between the side lot lines measured along a straight line most parallel to the front lot line. This minimum

- measurement or greater is maintained from the front building setback to the rear building setback.
- (73) **Lot, Zoning.** A single tract of land located within a single block which, at the time of filing for a building permit, 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.
- (74) **Machine Shops.** Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing; heating and electrical repair and overhaul shops.
- (75) **Marquee or Canopy.** A roof-like structure of permanent nature which projects from the wall of a building.
- (76) **Manufactured Home.** A structure certified and labeled as a manufactured home under 42 USC Secs. 5401-5426, which, when placed on the site:
- a. Is set on an enclosed continuous foundation in accordance with Sec. 70.043(1), Wis. Stats., and COMM 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
  - b. Is installed in accordance with the manufacturer's instructions;
  - c. Is properly connected to utilities; and
  - d. Meets other applicable standards of this Chapter.
- (77) **Minor Structures.** Any small, movable accessory erection or construction, such as birdhouses; tool houses; pethouses; play equipment; arbors; and walls and fences under four (4) feet in height.
- (78) **Mobile Home.** A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof) or thirty-two (32) feet or more in length (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; excluded from this definition are manufactured homes.
- (79) **Mobile Home Lot.** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (80) **Mobile Home Park.** A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.
- (81) **Motel.** A building containing lodging rooms having adjoining individual bathrooms, and where each lodging has a doorway opening directly to the outdoors, and more than fifty percent (50%) of the lodging rooms are for rent to transient tourists for a continuous period of less than thirty (30) days.

- (82) **Motor Freight Terminal.** A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.
- (83) **Motor Vehicle.** Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.
- (84) **Nonconforming Uses or Structures.** Any structure, use of land, use of land and structure in combination, or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.
- (85) **Nursery.** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.
- (86) **Nursery School.** Any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.
- (87) **Nursing Home.** Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.
- (88) **Parking Area, Semi-Public.** An open area other than a street, alley or place used for temporary parking of more than four (4) self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.
- (89) **Parking Lot.** A structure or premises containing ten (10) or more parking spaces open to the public.
- (90) **Parking Space.** An off-street space available for the parking of a motor vehicle and which is exclusive of passageways and driveways, appurtenant thereto and giving access thereto.
- (91) **Parties In Interest.** Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- (92) **Party Wall.** A wall containing no opening which extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and which separates contiguous buildings but is in joint use for each building.
- (93) **Other Officially Approved Access.** A private road or easement extending from a private property to a component of the public street system which the City Plan Commission has approved as a primary means of access.
- (94) **Place.** An open unoccupied space other than a street or alley, permanently reserved as the principal means of access to abutting property.
- (95) **Planned Residential Development.** A tract of land which contains or will contain two (2) or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas.

- (96) **Property Lines.** The lines bounding a platted lot as defined herein.
- (97) **Public Way.** Any sidewalk, street, alley, highway or other public thoroughfare.
- (98) **Professional Home Offices.** Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed the standards in Section 13.1.63 and only one (1) nonresident person is employed.
- (99) **Railroad Right-of-Way.** A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.
- (100) **School, Private.** An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other than public funds, but not including a school for mental defectives or a college or other institution of higher learning.
- (101) **School, Commercial.** A school limited to special instruction such as business, art, music, trades, handicraft, dancing or riding.
- (102) **Seat.** Furniture upon which to sit having a linear measurement not less than twentyfour (24) inches across the surface used for sitting.
- (103) **Setback.** The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhanging eaves/cornices shall not exceed twenty-four (24) inches. Any overhang of the eave/cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of the eave/cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback as provided in Section 13.1.22(g).
- (104) **Sign, Awning.** A sign that is mounted or painted on, or attached to an awning, canopy, or marquee.
- (105) **Sign, Copy.** The message or advertisement, and any other symbols on the face of a sign.
- (106) **Sign, Face.** The area or display surface used for the message.
- (107) **Sign, Ground.** Any sign placed upon or supported by the ground independent of any other structure.
- (108) **Sign, Portable.** A sign that is not permanent, affixed to a building, structure, or to the ground. Such sign may be mounted on wheels to make it transportable.
- (109) **Sign, Projecting.** A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.
- (110) **Sign, Roof.** A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

- (111) **Sign, Wall.** A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure.
- (112) **Sign, Window.** A sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window.
- (113) **Story.** That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.
- (114) **Story, Half.** A story which is situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.
- (115) **Street.** A public or private thoroughfare which affords the principal means of access to abutting property.
- (116) **Street Yard.** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof excluding uncovered steps. Where the street line is an arc, the street yard shall be measured from the arc. In some ordinances, the street yard is also called a setback.
- (117) **Structure.** Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.
- (118) **Structural Alterations.** Any change in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders.
- (119) **Trailer Park.** Any lot on which are parked two (2) or more house trailers or mobile homes for longer than forty-eight (48) hours.
- (120) **Use.** The use of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of standards of this Chapter.
- (121) **Use, Accessory.** A subordinate use on the same lot which is incidental and customary in connection with the principal use.
- (122) **Use, Nonconforming.** Any use of a building or premises which the effective date of this Chapter does not, even though lawfully establish, comply with all of the applicable use regulations of the zoning district in which such building or premise is located.
- (123) **Use, Principal.** The main use of land or building as distinguished from a subordinate or accessory use.
- (124) **Use, Permitted.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.
- (125) **Utilities.** Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays,



- and gas regulation stations, but not including sewage disposal plans, municipal incinerators, warehouses, shops, storage yards and power plants.
- (126) **Vending Machine.** A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building
- (127) **Yard.** A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest ground level to the sky, except as expressly permitted in this Chapter. A yard shall extend along a lot line and at right angle to such lot line between side lot line to a depth or width specified in the yard regulations for the district in which such lot is located.
- (128) **Yard, Corner Side.** A side yard which adjoins a public street.
- (129) **Yard, Front.** A yard extending along the full width of the front lot line between the side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the district in which such a lot is located.
- (130) **Yard, Rear.** A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.
- (131) **Yard, Side.** A yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.
- (132) **Yard, Street.** Yard abutting a street.
- (133) **Yard, Transitional.** That yard which must be provided on a zoning lot in a Business District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Business District.
- (134) **Zero Lot Line Duplex.** This dwelling unit type consists of a single-family residence which is attached on one (1) side to another single-family residence. A zero lot line duplex is distinguished from a duplex merely by having each unit located on an individual lot. These dwelling unit types shall not be split into additional residences.
- (135) **Zoning District.** An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

# Title 13 - Chapter 2

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## Floodplain Zoning

### Article A: Statutory Authorization, Finding of Facts, Statement of Purpose, Title and General Provisions

#### Section 13.2.1 Statutory Authorization.

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, and the requirements in s. 87.30, Stats.

#### Section 13.2.2 Finding of Fact.

Uncontrolled development and use of the floodplains, rivers or streams of the City of Hillsboro, Wisconsin, would adversely affect the public health, safety, convenience and general welfare and impairs its tax base.

#### Section 13.2.3 Statement of Purpose.

This ordinance is intended to regulate floodplain development to:

- (b) Protect life, health and property;
- (c) Minimize expenditures of public funds for flood control projects;
- (d) Minimize rescue and relief efforts, generally undertaken at the expense of the taxpayers;
- (e) Minimize business interruptions and other economic disruptions;
- (f) Minimize damage to public facilities on the floodplain;
- (g) Minimize the occurrence of future flood blight areas in the floodplain;
- (h) Discourage the victimization of unwary land and home buyers;
- (i) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

- (j) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

**Section 13.2.4      Title.**

This Chapter shall be known as the Floodplain Zoning Ordinance for the City of Hillsboro, Wisconsin.

**Section 13.2.5      Reserved for Future Use.**

**Section 13.2.6      Reserved for Future Use.**

**Section 13.2.7      Reserved for Future Use.**

**Section 13.2.8      Reserved for Future Use.**

**Section 13.2.9      Reserved for Future Use.**

## Title 13 - Chapter 2

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### Article B: General Provisions

#### Section 13.2.10 Areas to Be Regulated.

The ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

#### Section 13.2.11 Official Maps and Revisions.

The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see s. 8.0 *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the City Clerk, City of Hillsboro, WI. If more than one map or revision is referenced, the most restrictive information shall apply.

(a) **Official Maps.** Based on the FIS:

- (1) Flood Insurance Rate Map (FIRM), panel number 55123C0211D, 55123C0212D, 55123C0213D, and 55123C0214D dated November 2<sup>nd</sup>, 2012; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated November 2<sup>nd</sup>, 2012, Volume number 55123CV000A.

Approved by: The DNR

- (b) **Other Official Maps.** Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

- (c) **Establishment of Floodplain Zoning Districts.** The regional floodplain areas are divided into three districts as follows:
- (1) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.
  - (2) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
  - (3) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.

### **Section 13.2.12 Locating Floodplain Boundaries.**

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 13.2.66(e) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 13.2.73 *Amendments*.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

### **Section 13.2.13 Removal of Lands from Floodplain.**

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 13.2.73 *Amendments*.

### **Section 13.2.14 Compliance.**

Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

### **Section 13.2.15 Municipalities and State Agencies Regulated.**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

### **Section 13.2.16 Abrogation and Greater Restrictions.**

- (a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 for cities or s. 87.30, Wis. Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise
- (b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

### **Section 13.2.17 Interpretation.**

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

### **Section 13.2.18 Warning and Disclaimer of Liability.**

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

### **Section 13.2.19 Severability.**

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

### **Section 13.2.20 Annexed Areas.**

The Vernon County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

### **Section 13.2.21 General Standards Applicable to All Floodplain Districts.**

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and

floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 13.2.64. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

(a) **Hydraulic and Hydrologic Analysis.**

- (1) No floodplain development shall:
  - a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
  - b. Cause any increase in the regional flood height due to floodplain storage area lost.
- (2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 13.2.73 *Amendments* are met.

(b) **Watercourse Alterations.**

- (1) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 13.2.21(a) must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.
- (2) As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 13.2.73 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

(c) **Chapters 30, 31, Wis. Stats., Development.** Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to s. 13.2.73 *Amendments*.

(d) **Public or Private Campgrounds.** Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Department of Health Services;
- (2) A land use permit for the campground is issued by the zoning administrator;
- (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur,



personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;

- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations;
- (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed;
- (7) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 13.2.22, 13.2.33 or 13.2.43 for the floodplain district in which the structure is located;
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and

All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

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## Article C: Floodway District (FW)

### Section 13.2.22 Applicability.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 13.2.46.

### Section 13.2.23 Permitted Uses.

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- They are not prohibited by any other ordinance;
  - They meet the standards in s. 13.2.24 and 13.2.25; and
  - All permits or certificates have been issued according to s. 13.2.63.
- (a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting. Nonstructural industrial and commercial uses, such as: loading areas, parking areas and airport landing strips.
  - (b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  - (c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s, 13.2.24(d).
  - (d) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 13.2.24 and 13.2.25.
  - (e) Extraction of sand, gravel or other materials that comply with s. 13.2.24(d).
  - (f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
  - (g) Public utilities, streets and bridges that comply with s. 13.2.24(c).

## Section 13.2.24 Standards for Developments in Floodway Areas.

- (a) **General Requirements.**
- (1) Any development in the floodway shall comply with s. 13.2.21 and have a low flood damage potential.
  - (2) Applicants shall provide the following data to determine the effects of the proposal according to s. 13.2.21(a):
    - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
    - b. An analysis calculating the effects of this proposal on regional flood height.
  - (3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (2) above.
- (b) **Structures.** Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
- (1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
  - (2) Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - (3) Must be anchored to resist flotation, collapse, and lateral movement;
  - (4) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
  - (5) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (c) **Public Utilities, Streets and Bridges.** Public utilities, streets and bridges may be allowed by permit, provided that:
- (1) Adequate flood-proofing measures are provided to the flood protection elevation;
  - (2) Construction meets the development standards of s. 13.2.21.
- (d) **Fills or Deposition of Materials.** Fills or deposition of materials may be allowed by permit, provided that:
- (1) The requirements of s. 13.2.21(a) are met;
  - (2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
  - (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

- (4) The fill is not classified as a solid or hazardous material.

## Section 13.2.25 Prohibited Uses.

All uses not listed as permitted uses in s. 13.2.23 are prohibited, including the following uses:

- (a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;
- (e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (f) Any solid or hazardous waste disposal sites;
- (g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
- (h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

## Section 13.2.26 Private Piers.

- (a) **Permit Required.** Any owner of an existing pier or any owner wishing to construct a pier on property abutting Field Veteran's Memorial Lake must obtain a Pier or Deck Permit. An owner may apply for a permit by submitting an application for a Pier or Deck Permit on the form prescribed by the Zoning Administrator along with the required fee. No pier or dock extending outward from one's private property into Field Veteran's Memorial Lake is permitted to be in place or built without obtaining a permit.
- (b) **Permit Criteria.**
  - (1) Construction of new piers or docks and existing piers or docks must conform to all applicable sections of the Hillsboro Code of Ordinances, the Wisconsin Statutes and the Wisconsin Administrative Code, and all Federal laws, rules and regulations pertaining to obstructions in floodplains.
  - (2) All decking and other extensions from the pier frame, including the pier frame itself, that may be carried away by high waters must be firmly secured in a manner

that will prevent any portion of the pier and decking being washed away by high waters.

- (c) **Fee.** A permit fee may be established and changed from time to time by the Common Council as noted on the City’s Fee Schedule.

**Section 13.2.27** Reserved for Future Use.

**Section 13.2.28** Reserved for Future Use.

**Section 13.2.29** Reserved for Future Use.

**Section 13.2.30** Reserved for Future Use.

**Section 13.2.31** Reserved for Future Use.

**Section 13.2.32** Reserved for Future Use.

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### Article D: Flood Fringe District (FF)

#### Section 13.2.33 Applicability.

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 13.2.46.

#### Section 13.2.34 Permitted Uses.

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 13.2.35 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 13.2.63 have been issued.

#### Section 13.2.35 Standards for Development in Flood Fringe Areas.

S. 13.2.21(a) shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of s. 13.2.53 *Nonconforming Uses*;

- (a) **Residential Uses.** Any structure or building used for human habitation, including mobile/manufactured homes, which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet or exceed the following standards. Any existing structure in the flood fringe must meet the requirements of s. 13.2.53 *Nonconforming Uses*:
- (1) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s. 13.2.35(a)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
  - (2) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

S. 13.2.21(a) shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of s. 13.2.53 Nonconforming Uses;

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- (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (4).
- (4) In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
  - a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
  - b. The municipality has a DNR-approved emergency evacuation plan.
- (b) **Accessory Structures or Uses.** Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation .
- (c) **Commercial Uses.** Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of 13.2.35(a). Subject to the requirements of s. 13.2.35(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (d) **Manufacturing and Industrial Uses.** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s. 13.2.68. Subject to the requirements of s. 13.2.35(e) storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (e) **Storage of Materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 13.2.68. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (f) **Public Utilities, Streets and Bridges.** All utilities, streets and bridges should be designed to be compatible with the local comprehensive floodplain development plans, and:
  - (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 13.2.68;
  - (2) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation
- (g) **Sewage Systems.** All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 13.2.68(b)(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.
- (h) **Wells.** All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 13.2.68(b)(3) to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

- (i) **Solid Waste Disposal Sites.** All solid or hazardous waste disposal sites, whether public or private, are prohibited in flood fringe areas.
- (j) **Deposition of Materials.** Any materials deposited for any purpose may only be allowed if all the provisions of this ordinance are met.
- (k) **Mobile Homes and Manufactured Homes.**
  - (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
  - (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
    - a. have the lowest floor elevated to the flood protection elevation; and
    - b. be anchored so they do not float, collapse or move laterally during a flood.
  - (3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 13.2.35. Mobile Recreational Vehicles.

### **Section 13.2.36      Mobile Recreational Vehicles.**

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 13.2.35(k). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

**Section 13.2.37      Reserved for Future Use.**

**Section 13.2.38      Reserved for Future Use.**

**Section 13.2.39      Reserved for Future Use.**

**Section 13.2.40      Reserved for Future Use.**

**Section 13.2.41      Reserved for Future Use.**

**Section 13.2.42      Reserved for Future Use.**



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## **Article E: General Floodplain District (GFP)**

### **Section 13.2.43 Applicability.**

The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

### **Section 13.2.44 Permitted Uses.**

Pursuant to s. 13.2.46 it shall be determined whether the proposed use is located within the floodway or flood fringe.

Those uses permitted in the Floodway (s. 13.2.23) and Flood Fringe (s. 13.2.34) Districts are allowed within the General Floodplain District, according to the standards of s. 13.2.45, provided that all permits or certificates required under s. 13.2.63 have been issued.

### **Section 13.2.45 Standards for Development in the General Floodplain District.**

S. 13.2.22 applies to floodway areas, s. 13.2.33 applies to floodfringe areas. The rest of this ordinance applies to either district.

- (a) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:
  - (1) At or above the flood protection elevation; or
  - (2) Two (2) feet above the highest adjacent grade around the structure; or
  - (3) The depth as shown on the FIRM.
- (b) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

## **Section 13.2.46      Determining Floodway and Flood Fringe Limits.**

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (b) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.
- (c) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
  - (1) A Hydrologic and Hydraulic Study as specified in s. 13.2.64(b).
  - (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
- (d) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

**Section 13.2.47      Reserved for Future Use.**

**Section 13.2.48      Reserved for Future Use.**

**Section 13.2.49      Reserved for Future Use.**

**Section 13.2.50      Reserved for Future Use.**

**Section 13.2.51      Reserved for Future Use.**

**Section 13.2.52      Reserved for Future Use.**

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### Article F: Nonconforming Uses

#### Section 13.2.53 General.

- (a) If these standards conform with s. 62.23(7)(h), Stats. they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.
- (b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:
  - (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance.
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use

in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 13.2.35. The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph. If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the requirements of this Chapter. For the purpose of this Subsection, restoration is deemed impractical where the total cost of such restoration would exceed fifty percent (50%) of the present equalized assessed value of the structure.

- (5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 13.2.35.
  - (6) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 13.2.35.
  - (7) Except as provided in subd. (8), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
  - (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.
- (c) **Residential Structures.**
- (1) Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 13.2.68(b).
  - (2) Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

- (3) Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - (4) In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
  - (5) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 13.2.45.
  - (6) In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
- (d) **Nonresidential Structures.**
- (1) Shall meet the requirements of s. 13.2.53.
  - (2) Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 13.2.68.
  - (3) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 13.2.45
- (e) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 13.2.24, flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 13.2.68 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 13.2.53 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

## **Section 13.2.54 Floodway District.**

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
- (1) Has been granted a permit or variance which meets all ordinance requirements;
  - (2) Meets the requirements of s. 13.2.53 and s. 13.2.64.
  - (3) Shall not increase the obstruction to flood flows or regional flood height;
  - (4) Any addition to the existing structure shall be floodproofed, pursuant to s. 13.2.68, by means other than the use of fill, to the flood protection elevation; and
  - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the

- enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
  - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  - d. The use must be limited to parking, building access or limited storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 13.2.68(b)(3) and ch. SPS 383, Wis. Adm. Code.
- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 13.2.68(b)(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

## **Section 13.2.55 Flood Fringe District.**

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of s. 13.2.55, except where s. 13.2.55(b) is applicable.
- (b) Where compliance with the provisions of subd. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 13.2.66, may grant a variance from those provisions of subd. (a) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
- (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (2) Human lives are not endangered;
  - (3) Public facilities, such as water or sewer, shall not be installed;
  - (4) Flood depths will not exceed two (2) feet;
  - (5) Flood velocities will not exceed two (2) feet per second; and
  - (6) The structure will not be used for storage of materials described in Section 13.2.32(f).

- (c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, 13.2.68(b)(3) and ch. SPS 383, Wis. Adm. Code.
- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 13.2.68(b)(3) and ch. NR 811 and NR 812, Wis. Adm. Code.

**Section 13.2.56**      Reserved for Future Use.

**Section 13.2.57**      Reserved for Future Use.

**Section 13.2.58**      Reserved for Future Use.

**Section 13.2.59**      Reserved for Future Use.

**Section 13.2.60**      Reserved for Future Use.

**Section 13.2.61**      Reserved for Future Use.

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## Article G: Administration

### Section 13.2.62 Introduction.

Where a City Zoning Administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 62.23(7), Stats., these officials shall also administer this ordinance.

### Section 13.2.63 Zoning Administrator.

The City Zoning Administrator is authorized to administer this ordinance and shall have the following duties and powers:

- (b) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (c) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- (d) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (e) Keep records of all official actions such as:
  - (1) All permits issued, inspections made, and work approved;
  - (2) Documentation of certified lowest floor and regional flood elevations;
  - (3) Floodproofing certificates;
  - (4) Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
  - (5) All substantial damage assessment reports for floodplain structures;
  - (6) List of nonconforming structures and uses.
- (f) Submit copies of the following items to the Department Regional office:
  - (1) Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
  - (2) Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken;
  - (3) Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (g) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.



- (h) Submit copies of amendments to the FEMA Regional office.

## Section 13.2.64 Administrative Procedures.

- (a) **Zoning Permit.** A zoning use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:
- (1) **General Information.**
    - a. Name and address of the applicant, property owner and contractor;
    - b. Legal description, proposed use, and whether it is new construction or a modification.
  - (2) **Site Development Plan.** A site plan drawn to scale shall be submitted with the permit application form and shall contain:
    - a. Location, dimensions, area and elevation of the lot;
    - b. Location of the ordinary highwater mark of any abutting navigable waterways;
    - c. Location of any structures with distances measured from the lot lines and street center lines;
    - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
    - e. Location and elevation of existing or future access roads;
    - f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
    - g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
    - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and
    - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s.13.2.21(a). This may include any of the information noted in s. 13.2.24.
- (b) **Hydraulic and Hydrologic Studies to Analyze Development.**  
All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department
- (1) **Zone A Floodplains.**
    - a. **Hydrology.** The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

- b. Hydraulic Modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
  1. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
  2. Channel sections must be surveyed.
  3. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
  4. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
  5. The most current version of HEC\_RAS shall be used.
  6. A survey of bridge and culvert openings and the top of road is required at each structure.
  7. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
  8. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
  9. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- c. Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
  1. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
  2. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate

justification based on standard accepted engineering practices is provided.

- (2) Zone AE Floodplains.
- a. Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
  - b. Hydraulic Modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
    1. Duplicate Effective Model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
    2. Corrected Effective Model. The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
    3. Existing (Pre-Project Conditions) Model. The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
    4. Revised (Post-Project Conditions) Model. The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
    5. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
    6. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
  - c. Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

1. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
  2. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
  3. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
  4. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
  5. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
  6. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
  7. Both the current and proposed floodways shall be shown on the map.
  8. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.
- (3) **Expiration.** All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.
- (c) **Certificate of Compliance.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance.
  - (2) Application for such certificate shall be concurrent with the application for a permit.
  - (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed.
  - (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 13.2.68 are met.

- (d) **Other Permits.** Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

### **Section 13.2.65 Zoning Agency.**

- (a) The Zoning Agency or committee shall:
  - (1) Oversee the functions of the office of the Zoning Administrator;
  - (2) Review and advise the governing body on all proposed amendments to this ordinance, maps and text.
- (b) The zoning agency shall not:
  - (1) Grant variances to the terms of this Chapter in place of official action by the Board of Appeals.
  - (2) Amend the text or zoning maps in place of official action by the Common Council.

### **Section 13.2.66 Board of Appeals.**

- (a) **Statutory Authorization.** The appropriate board created by Chapter 62.23(7)(e), Wis. Stats., for cities is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.
- (b) **Powers and Duties.** The Board of Appeals shall:
  - (1) **Appeals.** Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
  - (2) **Boundary Disputes.** Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
  - (3) **Variances.** Hear and decide, upon appeal, variances from the ordinance standards.
- (c) **Appeals to the Board.** Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
- (d) **Notice and Hearing for Appeals Including Variances.**
  - (1) **Notice.** The Board shall:

- a. Fix a reasonable time for the hearing;
  - b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
  - c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
- (2) **Hearing.** Any party may appear in person or by an agent. The Board shall:
- a. Resolve boundary disputes according to Subsection (e);
  - b. Decide variance applications according to Subsection (f);
  - c. Decide appeals of permit denials according to Section 13.2.64.
- (3) **Decision.** The final decision regarding the appeal or variance application shall:
- a. Be made within a reasonable time;
  - b. Be sent to the Department Regional office within 10 days of the decision;
  - c. Be a written determination signed by the chairman or secretary of the Board;
  - d. State the specific facts which are the basis for the Board's decision;
  - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
  - f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.
- (e) **Boundary Disputes.** The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:
- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
  - (2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board .
  - (3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 13.2.73 *Amendments*.
- (f) **Variance.**
- (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
    - a. Literal enforcement of the ordinance will cause unnecessary hardship.
    - b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended.
    - c. The variance is not contrary to the public interest.
    - d. The variance is consistent with the purpose of this ordinance in s. 13.2.3.
  - (2) In addition to the criteria in subd. (1), to qualify for a variance under FEMA regulations, the following criteria must be met:
    - a. The variance shall not cause any increase in the regional flood elevation.

- b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE.
  - c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (3) A variance shall not:
- a. Grant, extend or increase any use prohibited in the zoning district.
  - b. Be granted for a hardship based solely on an economic gain or loss.
  - c. Be granted for a hardship which is self-created.
  - d. Damage the rights or property values of other persons in the area.
  - e. Allow actions without the amendments to this ordinance or map(s) required in s. 13.2.73 *Amendments*.
  - f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

## **Section 13.2.67      Review Appeals of Permit Denials.**

- (a) The Board of Appeals shall review all data related to the appeal. This may include:
- (1) Permit application data listed in s. 13.2.64(b);
  - (2) Floodway/floodfringe determination data in s. 13.2.46;
  - (3) Data listed in s. 13.2.24(a)(2) where the applicant has not submitted this information to the zoning administrator; and
  - (4) Other data submitted with the application, or submitted to the Board with the appeal.
- (b) For appeals of all denied permits the Board shall:
- (1) Follow the procedures of s. 13.2.66;
  - (2) Consider Zoning Agency recommendations;
  - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the Board shall:
- (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 13.2.73 *Amendments*; and
  - (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

### **Section 13.2.68 Floodproofing Standards for Non-conforming Structure or Uses.**

- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
  - (1) Certified by a registered professional engineer or architect; or
  - (2) Meets or exceeds the following standards:
    - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - b. The bottom of all openings shall be no higher than one foot above grade; and
    - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - (3) Floodproofing measures shall be designed, as appropriate, to:
    - a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
    - b. Protect structures to the flood protection elevation;
    - c. Anchor structures to foundations to resist flotation and lateral movement;
    - d. Minimize or eliminate infiltration of flood waters; and
  - (4) Minimize or eliminate discharges into flood waters.

### **Section 13.2.69 Public Information.**

- (a) Place marks on structures to show the depth of inundation during the regional flood.
- (b) All maps, engineering data and regulations shall be available and widely distributed.
- (c) Real estate transfers should show what floodplain district any real property is in.

### **Section 13.2.70 Permits that Authorize Reasonable Accommodations for Handicapped Persons.**

- (a) The Zoning Administrator shall issue a zoning permit that waives specified zoning ordinance requirements if the Zoning Administrator determines that both of the following conditions have been met:



- (1) The accommodation (i.e., the waiver of zoning restrictions) that has been requested, or another less extensive accommodation, is necessary to afford equal housing opportunity, or equal access to public accommodations, for disabled or handicapped persons, and is the minimum accommodation that will give the handicapped or disabled persons adequate relief.
  - (2) The accommodation will not unreasonably undermine the basic purposes that the Chapter seeks to achieve.
- (b) If the Zoning Administrator issues a zoning permit to a handicapped or disabled person, or to the owner of a place of public accommodations, that waives certain specified zoning requirements, the permit shall state that:
- (1) Issuance of the permit is required by the Federal Fair Housing Act, and the Wisconsin Open Housing Law, or the Americans with Disabilities Act (ADA).
  - (2) Where appropriate, the Zoning Administrator shall attach to the permit the condition that the building addition or other structure (such as entrance ramps) that is authorized by the permit must be constructed in such a way that it can easily be removed when the handicapped or disabled person no longer occupies the property. If such a condition is attached to the permit, the property owner is required by this Section to notify the Zoning Administrator no later than thirty (30) days after the handicapped or disabled person vacates the property.
  - (3) In cases where the Zoning Administrator issues a permit to a handicapped or disabled person that is conditioned upon the building addition or other structure being removed when the handicapped or disabled person no longer occupies the property, the permit shall not become effective until the owner of the property signs an affidavit, and records it at the County Register of Deeds Office, that gives notice that the building addition or other structure authorized by the permit is only authorized for the period of time that a handicapped or disabled person who requires the structure occupies the property.

**Section 13.2.71**      **Reserved for Future Use.**

**Section 13.2.72**      **Reserved for Future Use.**

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### **Article H: Amendments**

#### **Section 13.2.73 Amendments.**

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s.13.2.74.:

- (a) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 13.2.74. Any such alterations must be reviewed and approved by FEMA and the DNR
- (b) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 13.2.74.

#### **Section 13.2.74 General.**

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 13.2.75 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (3) Any changes to any other officially adopted floodplain maps listed in s. 13.2.11;
- (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- (6) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

- (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

### **Section 13.2.75      Procedures.**

- (a) Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for cities. The petitions shall include all data required by ss. 13.2.46 and 13.2.64. The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.
  - (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities.
  - (2) No amendments shall become effective until reviewed and approved by the Department.
  - (3) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

**Section 13.2.76      Reserved for Future Use.**

**Section 13.2.77      Reserved for Future Use.**

**Section 13.2.78      Reserved for Future Use.**

**Section 13.2.79      Reserved for Future Use.**

**Section 13.2.80      Reserved for Future Use.**

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### **Article I: Enforcement and Penalties**

#### **Section 13.2.81 Enforcement and Penalties.**

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$25.00 (twenty-five dollars) and not more than \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

**Section 13.2.82** Reserved for Future Use.

**Section 13.2.83** Reserved for Future Use.

**Section 13.2.84** Reserved for Future Use.

**Section 13.2.85** Reserved for Future Use.

**Section 13.2.86** Reserved for Future Use.

**Section 13.2.87** Reserved for Future Use.

**Section 13.2.88** Reserved for Future Use.

**Section 13.2.89** Reserved for Future Use.

**Section 13.2.90** Reserved for Future Use.

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## Article J: Definitions

### Section 13.2.91 Definitions.

- (a) Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.
- (1) **A Zones.** Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
  - (2) **AH Zone.** See "AREA OF SHALLOW FLOODING".
  - (3) **AO Zone.** See "AREA OF SHALLOW FLOODING".
  - (4) **Accessory Structure or Use.** A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
  - (5) **Alteration.** An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
  - (6) **Area of Shallow Flooding.** A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
  - (7) **Base Flood.** Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
  - (8) **Basement.** Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
  - (9) **Bulkhead Line.** A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

- (10) **Campground.** Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- (11) **Camping Unit.** Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
- (12) **Certificate of Compliance.** A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
- (13) **Channel.** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (14) **Crawlways or Crawl Space.** An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- (15) **Deck.** An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- (16) **Department.** The Wisconsin Department of Natural Resources.
- (17) **Development.** Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- (18) **Dryland Access.** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- (19) **Encroachment.** Any fill, structure, equipment, use or development in the floodway.
- (20) **Federal Emergency Management Agency (FEMA).** The federal agency that administers the National Flood Insurance Program.
- (21) **Flood Insurance Rate Map (FIRM).** A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- (22) **Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
  - a. The overflow or rise of inland waters;

- b. The rapid accumulation or runoff of surface waters from any source;
  - c. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; and
  - d. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (23) **Flood Frequency.** The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
- (24) **Flood Fringe.** That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- (25) **Flood Hazard Boundary Map.** A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- (26) **Flood Insurance Study.** A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- (27) **Floodplain.** Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- (28) **Floodplain Island.** A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (29) **Floodplain Management.** Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (30) **Flood Profile.** A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (31) **Floodproofing.** Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- (32) **Flood Protection Elevation.** An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: Freeboard.)

- (33) **Floodway.** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (34) **Flood Storage.** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (35) **Freeboard.** A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- (36) **Habitable Structure.** Any structure or portion thereof used or designed for human habitation.
- (37) **Hearing Notice.** Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (38) **High Flood Damage Potential.** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents
- (39) **Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (40) **Historic Structure.** Any structure that is either:
  - a. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- (41) **Increase in Regional Flood Height.** A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.



- (42) **Land Use.** Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- (43) **Lowest Adjacent Grade.** Elevation of the lowest ground surface that touches any of the exterior walls of a building.
- (44) **Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3
- (45) **Maintenance.** The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
- (46) **Manufactured Home.** A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- (47) **Mobile/Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.
- (48) **Mobile/Manufactured Home Park or Subdivision, Existing.** A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- (49) **Mobile/Manufactured Home Park or Subdivision, Expansion to Existing.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- (50) **Mobile Recreational Vehicle.** A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- (51) **Model, Corrected Effective.** A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross

- sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
- (52) **Model, Duplicate Effective.** A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
- (53) **Model, Effective.** The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- (54) **Model, Existing (Pre-Project).** A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
- (55) **Model, Revised (Post-Project).** A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- (56) **Municipality or Municipal.** The city governmental units enacting, administering and enforcing this zoning ordinance.
- (57) **NAVD or North American Vertical Datum.** Elevations referenced to mean sea level datum, 1988 adjustment.
- (58) **NGVD or National Geodetic Vertical Datum.** Elevations referenced to mean sea level datum, 1929 adjustment.
- (59) **New Construction.** For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (60) **Nonconforming Structure.** An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- (61) **Nonconforming Use.** An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- (62) **Obstruction to Flow.** Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

- (63) **Official Floodplain Zoning Map.** That map, adopted and made part of this ordinance, as described in s. 13.2.11, which has been approved by the Department and FEMA.
- (64) **Open Space Use.** Those uses having a relatively low flood damage potential and not involving structures.
- (65) **Ordinary High-Water Mark.** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (66) **Person.** An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (67) **Private Sewage System.** A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (68) **Public Utilities.** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (69) **Reasonably Safe from Flooding.** Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (70) **Regional Flood.** A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (71) **Start of Construction.** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building

- (72) **Structure.** Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (73) **Subdivision.** Has the meaning given in s. 236.02(12), Wis. Stats.
- (74) **Substantial Damage.** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- (75) **Substantial Improvements.** Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (76) **Unnecessary Hardship.** Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- (77) **Variance.** An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- (78) **Violation.** The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- (79) **Watershed.** The entire region contributing runoff or surface water to a watercourse or body of water.
- (80) **Water Surface Profile.** A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- (81) **Well.** An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

## **Title 13 - Chapter 3**

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### **Shoreland-Wetland Zoning**

#### **Article A: Statutory Authorization; Findings of Fact; Statement of Purpose and Title**

##### **Section 13.3.1 Statutory Authorization.**

This Chapter is adopted pursuant to the authorization in Secs. 62.23, 62.231, 87.30 and 281.31, Wis. Stats.

##### **Section 13.3.2 Findings of Fact.**

Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the City of Hillsboro would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

- (a) Promote the public health, safety, convenience and general welfare;
- (b) Maintain the storm and flood water storage capacity of wetlands;
- (c) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (d) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (e) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (f) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

##### **Section 13.3.3 Title of Chapter.**

Shoreland-Wetland Zoning Ordinance/Chapter for the City of Hillsboro, Wisconsin.

**Section 13.3.4** Reserved for Future Use.

**Section 13.3.5** Reserved for Future Use.

**Section 13.3.6** Reserved for Future Use.

**Section 13.3.7** Reserved for Future Use.

**Section 13.3.8** Reserved for Future Use.

**Section 13.3.9** Reserved for Future Use.

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### **Article B: General Provisions**

#### **Section 13.3.10 Compliance.**

The use of wetlands and the alteration of wetlands within the shoreland area of the City of Hillsboro shall be in full compliance with the terms of this Chapter and other applicable local, state or federal regulations. (However, see Section 13.3.25 of this Chapter for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

#### **Section 13.3.11 Municipalities and State Agencies Regulated.**

Unless specifically exempted by law, all cities, villages, town and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Section 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Sec. 30.2022(1)(a), Wis. Stats., applies.

#### **Section 13.3.12 Abrogation and Greater Restrictions.**

- (a) This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Secs. 62.23, 62.231, or 87.30, Wis. Stats., which relates to floodplains and shorelandwetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

### **Section 13.3.13 Interpretation.**

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 117, Wis. Adm. Code, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 117 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

### **Section 13.3.14 Severability.**

Should any portion of this Chapter be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

### **Section 13.3.15 Annexed Areas.**

The shoreland zoning provisions of Vernon County in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's official zoning map. The Vernon County shoreland zoning provisions are incorporated by reference for the purpose of administering this Chapter and are on file in the office of the municipal zoning administrator.

**Section 13.3.16** Reserved for Future Use.

**Section 13.3.17** Reserved for Future Use.

**Section 13.3.18** Reserved for Future Use.

**Section 13.3.19** Reserved for Future Use.

**Section 13.3.20** Reserved for Future Use.



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# Article C: Shore land-Wetland Zoning District

### Section 13.3.21 Official Shoreland-Wetland Zoning Maps.

The following maps are hereby adopted and made a part of this Chapter and are on file in the office of the City Clerk:

- (a) Wisconsin Wetland Inventory map stamped "Final" on February 21, 1994.
- (b) Zoning Maps titled "City of Hillsboro Zoning Map" dated 1993.
- (c) Floodplain Zoning Maps titled "Map H-01B" dated July 1, 1987.

### Section 13.3.22 District Boundaries.

- (a) **Boundaries.** The shoreland-wetland zoning district includes all wetlands in the City of Hillsboro, Wisconsin, which are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13.3.21 and which are:
  - (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the City of Hillsboro shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13.3.21 of this Chapter.
  - (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13.3.21. Floodplain Zoning Maps shall be used to determine the extent of floodplain areas in the City.
- (b) **Determinations of Navigability.** Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high-water mark.

- (c) **Discrepancies.** When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official shoreland-wetland zoning maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in Sections 13.3.21(a) and 13.3.21(c), the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

### **Section 13.3.23 Permitted Uses.**

The following uses are permitted subject to the provisions of Chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

- (a) **No Wetland Alteration.** Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
- (1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
  - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
  - (3) The practice of silviculture, including the planting, thinning and harvesting of timber;
  - (4) The pasturing of livestock;
  - (5) The cultivation of agricultural crops; and
  - (6) The construction and maintenance of duck blinds.
- (b) **Wetland Alteration Restricted.** Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
- (1) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
  - (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
  - (3) The maintenance and repair of existing drainage to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible, and that dredged spoil is placed on existing spoil banks where possible;

- (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
  - (5) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
  - (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed in Section 13.3.38(c) of this Chapter; and
  - (7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (c) **Permit Required.** Uses which are allowed upon the issuance of a simple zoning permit and which may include wetland alterations only to the extent specifically provided below:
- (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted in this Section, provided that:
    - a. The road cannot, as a practical matter, be located outside the wetland;
    - b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13.3.38(c) of this Chapter;
    - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
    - d. Road construction activities are carried out in the immediate area of the roadbed only; and
    - e. Any wetland alteration must be necessary for the construction or maintenance of the road.
  - (2) The construction and maintenance of nonresidential buildings provided that:
    - a. The building is used solely in conjunction with a use permitted in the shorelandwetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
    - b. The building cannot, as a practical matter, be located outside the wetland;
    - c. The building does not exceed five hundred (500) square feet in floor area; and
    - d. Only limited filling and excavating necessary to provide structural support for the building is allowed.
  - (3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

- a. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
  - b. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
  - c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) of this Section; and
  - d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (4) The construction and maintenance of electric and telephone transmission lines, gas and water distribution lines, and sewage collection lines, and related facilities and the construction and maintenance of railroad lines provided that:
- a. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
  - b. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
  - c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13.3.38(c) of this Chapter.

### **Section 13.3.24 Prohibited Uses.**

- (a) **Rezoning Required.** Any use not listed in Section 13.3.22 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13.3.38 of this Chapter.
- (b) **Other Prohibited Uses.** The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

### **Section 13.3.25 Nonconforming Structures and Uses.**

The lawful use of a building, structure or property which existed at the time this Chapter, or an applicable amendment to this Chapter, took effect and which is not in conformity with the provisions of the Chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- (a) **Reconstruction and Repair.** The shoreland-wetland provisions of this ordinance authorized by Sec. 62.231, Wis. Stats., shall not limit the repair, reconstruction,

renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications to nonconforming structures are subject to Sec. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to fifty percent (50%) of current fair market value.

- (b) **Nonconforming Use Discontinued.** If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this Chapter.
- (c) **Nonconforming Use Without a Structure.** Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Chapter adopted under Secs. 62.231 or 61.351, Wis. Stats., may be continued although such use does not conform with the provisions of this Chapter. However, such nonconforming use may not be extended.
- (d) **Boathouses.** The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Sec. 30.121, Wis. Stats.
- (e) **Nuisances.** Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

**Section 13.3.26**      Reserved for Future Use.

**Section 13.3.27**      Reserved for Future Use.

**Section 13.3.28**      Reserved for Future Use.

**Section 13.3.29**      Reserved for Future Use.

**Section 13.3.30**      Reserved for Future Use.

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## Article D: Administrative Provisions

### Section 13.3.31 Zoning Administrator.

The City Zoning Administrator is appointed Zoning Administrator for the purpose of administering and enforcing this Chapter. The Zoning Administrator shall have the following duties and powers:

- (a) Advise applications as to the provisions of this Chapter and assist them in preparing permit applications and appeal forms.
- (b) Issue permits and inspect properties for compliance with this Chapter.
- (c) Keep records of all permits issued, inspections made, work approved and other official actions.
- (d) Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
- (e) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation and map or text amendments within ten (10) days after they are granted or denied to the appropriate district office of the Department.
- (f) Investigate and report violations of this Chapter to the appropriate City planning agency and the District Attorney, corporation counsel or City Attorney.

### Section 13.3.32 Zoning Permits.

- (a) **When Required.** Unless another Section of this Chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 13.3.42(b)(6) of this Chapter, or any change in the use of an existing building or structure is initiated.
- (b) **Application.** An application for a permit shall be made to the Zoning Administrator upon forms furnished by the City and shall include, for the purpose of proper enforcement of these regulations, the following information:
  - (1) **General Information.**
    - a. Name, address and telephone number of applicant, property owner and contractor, where applicable.
    - b. Legal description of the property and a general description of the proposed use or development.
    - c. Whether or not a private water or sewage system is to be installed.

- (c) **Site Development Plan.** The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
- a. Dimensions and area of the lot;
  - b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
  - c. Description of any existing or proposed on-site sewage systems or private water supply systems;
  - d. Location of the ordinary high-water mark of any abutting navigable waterways;
  - e. Boundaries of all wetlands;
  - f. Existing and proposed topographic and drainage features and vegetative cover;
  - g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
  - h. Location of existing or future access roads; and
  - i. Specifications and dimensions for areas of proposed wetland alteration.
- (d) **Expiration.** All permits issued under the authority of this Chapter shall expire twelve (12) months from the date of issuance.

### **Section 13.3.33 Certificates of Compliance.**

- (a) **Certificates of Compliance.** Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this Chapter.
  - (2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
  - (3) The certificate of compliance shall be issued within ten (10) days after notification of the completion of the work specified in the zoning or conditional use permit, providing the building or premises and proposed use thereof conform with all the provisions of this Chapter.
- (b) **Temporary Certificate.** The Zoning Administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the Common Council.
- (c) **Issued Upon Written Request.** Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of ordinance adoption, certifying after inspection the extent and type

of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.

### **Section 13.3.34 Conditional Use Permits.**

- (a) **Application.** Any use listed as a conditional use in this Chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Board of Appeals following the procedures in Section 13.3.38(b), (c) and (d).
- (b) **Conditions.** Upon consideration of the permit application and the standards applicable to the conditional uses designated in Section 13.3.22, the Board of Appeals shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this Chapter, as are necessary to further the purposes of this Chapter. Such conditions may include specifications for, without limitation because of specific enumeration: Type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this Chapter.

### **Section 13.3.35 Fees.**

The Common Council, by resolution, shall establish fees for the following:  
Zoning permits.

- (b) Public hearings.
- (c) Legal notice publications.
- (d) Conditional use permits.
- (e) Rezoning petitions.
- (f) Certificates of compliances.

### **Section 13.3.36 Recording.**

Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.



### **Section 13.3.37      Revocation.**

Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Board of Appeals.

### **Section 13.3.38      Board of Appeals.**

- (a) **Appointment.** The Mayor shall appoint a Board of Appeals under Title 2, Chapter 4 of this Code of Ordinances and Sec. 62.23(7)(e), Wis. Stats., consisting of five (5) members subject to confirmation by the Common Council. The Board of Appeals shall adopt rules for the conduct of the business of the Board of Appeals as required by Sec. 62.23(7)(e)3, Wis. Stats.
- (b) **Powers and Duties.** The Board of Appeals shall:
  - (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
  - (2) Hear and decide applications for conditional use permits under this Chapter.
  - (3) May authorize, upon appeal, a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:
    - a. That literal enforcement of the terms of the ordinance will result in unnecessary hardship for the applicant.
    - b. That the hardship is due to special conditions unique to the property; and is no self-created or based solely on economic gain or loss.
    - c. That such variance is not contrary to the public interest as expressed by the purpose of this Chapter.
    - d. That such variance will not grant or increase any use of property which is prohibited in the zoning district.
- (c) **Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the official from whom the appeal is taken and with the Board of Appeals, a notice of appeal specifying the reasons therefor. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board all the papers constituting the record on which the appeal action was taken.
- (d) **Public Hearings.**
  - (1) Before making a decision on an appeal, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before

the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.

- (2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten (10) days prior to all public hearings on issues involving shoreland-wetland zoning.
- (e) **Decisions.**
- (1) The final disposition of an appeal, or application for a conditional use permit, to the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or persecution, or grant the application for a conditional use.
  - (2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within one hundred ninety (190) days after the decision is issued.

### **Section 13.3.39 Amending Shoreland-Wetland Zoning Regulations.**

The Common Council may alter, supplement or change the district boundaries and the regulations contained in this Chapter in accordance with the requirements of Sec. 62.23(7)(d)2, Wis. Stats., Ch. NR 117, Wis. Adm. Code, and the following:

- (a) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the City planning agency.
- (b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held as required by Sec. 62.23(7)(d)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least twenty (20) days prior to such hearing.
- (c) In order to insure that the shoreland protection objectives in Sec. 281.31, Wis. Stats., will be accomplished by the amendment, the Common Council may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
  - (1) Storm and flood water storage capacity;
  - (2) 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;
  - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

- (4) Shoreline protection against soil erosion;
  - (5) Fish spawning, breeding, nursery or feeding grounds;
  - (6) Wildlife habitat; or
  - (7) Areas of special recreational scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- (d) Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, the Department shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment.
- (e) The appropriate district office of the Department shall be provided with:
- (1) A copy of the recommendations and report, if any, of the municipal planning agency on the proposed text or map amendment within ten (10) days after the submission of those recommendations to the Common Council; and
  - (2) Written notice of the Common Council's action on the proposed text or map amendment within ten (10) days after the action is taken.
- (f) If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, that proposed amendment, if approved by the Common Council, may not become effective until more than thirty (30) days have elapsed since written notice of the Common Council approval was mailed to the Department, as required by Subsection (e) of this Section. If, within the thirty (30) day period, the Department notifies the Common Council that the Department intends to adopt a superseding shorelandwetland zoning ordinance for the City under Secs. 62.231(6) and 61.351(6), Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under Secs. 62.231(6) and 61.351(6), Wis. Stats., is completed or otherwise terminated.

**Section 13.3.40**      **Reserved for Future Use.**

# Title 13 - Chapter 3

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## Article E: Penalties; Definitions

### Section 13.3.41 Enforcement and Penalties.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this Chapter in violation of the provisions of this Chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Common Council and the City Attorney who shall prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture of not less than Fifteen Dollars (\$15.00) nor more than Two Hundred Dollars (\$200.00) per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the City, the State or any citizen thereof pursuant to Sec. 87.30(2), Wis. Stats.

### Section 13.3.42 Definitions.

- (a) For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.
- (b) The following terms used in this Chapter mean:
  - (1) **Accessory Structure or Use.** A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.
  - (2) **Boathouse.** As defined in Sec. 30.121, Wis. Stats., a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.
  - (3) **Class 2 Public Notice.** Publication of a public hearing notice under Chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is

- required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing.
- (4) **Conditional Use.** A use which is permitted by this Chapter provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.
  - (5) **Department.** The Wisconsin Department of Natural Resources.
  - (6) **Development.** Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.
  - (7) **Drainage System.** One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
  - (8) **Environmental Control Facility.** Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.
  - (9) **Fixed Houseboat.** As defined in Sec. 30.121, Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.
  - (10) **Navigable Waters.** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under Sec. 281.31(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Secs. 61.351 and 62.231, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
    - a. Such lands are not adjacent to a natural navigable stream or river;
    - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
    - c. Such lands are maintained in nonstructural agricultural use
  - (11) **Ordinary High-Water Mark.** The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic.
  - (12) **Planning Agency.** The Plan Commission created under Sec. 62.23(1), Wis. Stats.

- (13) **Shorelands.** Lands within the following distances from the ordinary high-water mark of navigable waters; one thousand (1,000) feet from a lake, pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (14) **Shoreland-Wetland District.** The zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13.3.20 of this Chapter.
- (15) **Unnecessary Hardship.** That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.
- (16) **Variance.** An authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Chapter.
- (17) **Wetlands.** Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (18) **Wetland Alteration.** Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

# TITLE 14

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# Title 14 - Chapter 1

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## Subdivision Regulations

### Article A: Adoption; Introduction

#### Section 14.1.1 Introduction and Purpose.

- (a) **Introduction.** In accordance with the authority granted by Secs. 236.13(1)(b) and 236.45 of the Wis. Stats. and for the purposes listed in Secs. 236.01 and 236.45 of the Wis. Stats., the Common Council of the City of Hillsboro, Wisconsin, does hereby ordain as follows:
- (1) The provisions of this Chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the City of Hillsboro.
  - (2) This Chapter shall not repeal, impair or modify private covenants or public ordinances, except that it shall apply whenever it imposes stricter restrictions on land use.
- (b) **Purpose.** The purpose of this Chapter is to regulate and control the division of land within the corporate limits of the City of Hillsboro, Wisconsin, and its extraterritorial plat approval jurisdiction in order to promote the public health, safety, morals, prosperity, aesthetics, and general welfare of the City and its environs.
- (c) **Intent.** It is the general intent of this Chapter to regulate the division of land so as to:
- (1) Obtain the wise use, conservation, protection, and proper development of the City's soil, water, wetland, woodland, and wildlife resources and attain a proper adjustment of land use and development to the supporting and sustaining natural resource base;
  - (2) Lessen congestion in the streets and highways;
  - (3) Further the orderly layout and appropriate use of land;
  - (4) Secure safety from fire, panic and other dangers;
  - (5) Provide adequate light and air;
  - (6) Facilitate adequate provision for housing, transportation, water supply, storm water, wastewater, schools, parks, playgrounds, and other facilities and services;
  - (7) Secure safety from flooding, water pollution, disease and other hazards;

- (8) Prevent flood damage to persons and properties and minimize expenditures for flood relief and flood control projects;
- (9) Prevent and control erosion, sedimentation, and other pollution of surface and subsurface waters;
- (10) Preserve natural vegetation and cover and promote the natural beauty of the City;
- (11) Restrict building sites in areas covered by poor soils or in other areas poorly suited for development;
- (12) Facilitate the further division of larger tracts into smaller parcels of land;
- (13) Ensure adequate legal description and proper survey monumentation of subdivided land;
- (14) Provide for the administration and enforcement of this Chapter;
- (15) Provide penalties for its violations; and
- (16) Implement those municipal, county, watershed, or regional comprehensive plans or their components adopted by the City, and in general to facilitate enforcement of City development standards as set forth in the adopted regional, county, and local comprehensive plans, adopted plan components, City Zoning Code, and City Building Code of the City of Hillsboro, Wisconsin.

*State Law Reference:* Chapter 236, Wis. Stats.

## **Section 14.1.2 Abrogation and Greater Restrictions.**

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

## **Section 14.1.3 Interpretation.**

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

### **Section 14.1.4      Severability.**

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

### **Section 14.1.5      Repeal.**

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

### **Section 14.1.6      Title.**

This Chapter shall be known as, referred to, or cited as the "City of Hillsboro Subdivision Chapter" or "City of Hillsboro Land Division and Subdivision Chapter."

### **Section 14.1.7      Disclaimer of Liability.**

The City of Hillsboro does not guarantee, warrant, or represent that only those areas delineated as floodlands on plats and certified survey maps will be subject of periodic inundation, nor does the City guarantee, warrant, or represent that the soils shown to be unsuited for a given land use from tests required by the Chapter are the only unsuited soils within the jurisdiction of this Chapter; and thereby asserts that there is no liability on the part of the Common Council, its agencies, or employees for flooding problems, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this Chapter.

### **Section 14.1.8      Reserved for Future Use.**

### **Section 14.1.9      Reserved for Future Use.**

# Title 14 - Chapter 1

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## Article B: Definitions

### Section 14.1.10 Definitions.

- (a) The following definitions shall be applicable in this Chapter:
- (1) **Alley.** A public right-of-way which normally affords a secondary means of vehicular access to abutting property.
  - (2) **Arterial Street.** A street used, or intended to be used primarily for fast or heavy through traffic. Arterial streets shall include freeways and expressways, as well as standard arterial streets, highways and parkways.
  - (3) **Bikeway.** A bike route completely apart from a street and restricted to bicycle, pedestrian, and maintenance vehicle traffic.
  - (4) **Block.** An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or water bodies.
  - (5) **Building Line or Building Setback Line.** A line parallel to a lot line and at a distance from the lot line so as to comply with the yard and setback requirements of the City Zoning Code, or any restriction on the plat which identifies a line on the plat as a building setback line. The building setback line shall be substantially parallel to the right-of-way.
  - (6) **City.** The City of Hillsboro, Wisconsin, and, where appropriate, its Common Council, commissions, committees and authorized officials.
  - (7) **Collector Street.** A street which collects and distributes internal traffic within an urban area such as a residential neighborhood, between arterial and local streets. It provides access to abutting property.
  - (8) **Commission.** The Plan Commission created by the Common Council pursuant to Sec. 62.23, Wis. Stats.
  - (9) **Community.** A town, municipality, or a group of adjacent towns and/or municipalities having common social, economic or physical interests.
  - (10) **Comprehensive Plan.** The extensively developed plan, also called a master plan, adopted by the City Plan Commission and certified to the Common Council pursuant to Sec. 62.23, Wis. Stats., including detailed neighborhood plans, proposals for future land use, transportation, urban redevelopment and public facilities. Devices for the implementation of these plans, such as zoning, official

- mapping, land division, and building line ordinances and capital improvement programs shall also be considered a part of the comprehensive plan.
- (11) **Concept Plan.** A preliminary drawing, made to approximate scale, of a proposed land division for discussion purposes.
  - (12) **Condominium Development.** A real estate development in which a condominium form of ownership pursuant to Chapter 703, Wis. Stats., is utilized.
  - (13) **Cul-de-sac.** A short street having but one (1) end open to traffic and the other end being permanently terminated in a vehicular turnaround.
  - (14) **Days.** As used in this Chapter, "days" shall mean calendar, not working days.
  - (15) **Dead End Street.** A street permanently or temporarily closed at one end, with or without turnarounds.
  - (16) **Division of Land.** Where the title or any part thereof is transferred by the execution of a land contract, an option to purchase, an offer to purchase and acceptance, a deed, or a certified survey.
  - (17) **Drainageway.** An open area of land, either in an easement or dedicated right-of-way, the primary purpose of which is to carry storm water on the ground surface in lieu of an enclosed storm sewer. Drainageways may serve multiple purposes in addition to their principal use including, but not limited to, maintenance, bicycle and pedestrian traffic, sanitary sewers, water mains, storm sewers, storm water detention, park development, and other related uses. Drainageways may also be referred to as "greenways."
  - (18) **Easement.** The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.
  - (19) **Extraterritorial Plat Approval Jurisdiction.** The unincorporated area within one and one-half (1-1/2) miles of a fourth-class city or a village, and within three (3) miles of all other cities. Wherever such statutory extraterritorial powers overlap with those of another city or village, the jurisdiction over the overlapping area shall be divided on a line all points of which are equidistant from each community so that not more than one (1) community exercises extraterritorial powers over any area.
  - (20) **Final Plat.** A map prepared in accordance with the requirements of Chapter 236, Wis. Stats., and this Chapter for the purpose of dividing larger parcels into lots and conveying those lots. The lines showing where lots and other improvements are located are precise.
  - (21) **Floodlands.** Those lands, including the floodplains, floodways, and channels subject to inundation by the one hundred (100) year recurrence interval flood or, where such data is not available, the maximum flood of record.
  - (22) **Frontage Street.** A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.
  - (23) **Half Street.** A street, either existing as or proposed to be, half of the required right-of-way width with the intention that the adjoining half will be platted at the time the adjoining lands are subdivided; or an existing street, of which, due to reasons of

ownership, only half of the right-of-way is within the boundaries of a proposed land division or annexation.

- (24) **High Water Elevation (Surface Water).** The average annual high water level of a pond, stream, lake, flowage, or wetland referred to an established datum plan or, where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic, or vegetative characteristic.
- (25) **High Groundwater Elevation.** The highest elevation to which subsurface water rises. This may be evidenced by the actual presence of water during wet periods of the year, or by soil mottling during drier periods. "Mottling" is a mixture or variation of soil colors. In soils with restricted internal drainage, gray, yellow, red, and brown colors are intermingled giving a multi-colored effect.
- (26) **Impervious Lot Area.** Roof areas, gravel or bituminous surfaces, sidewalks, decks or other hard surface areas.
- (27) **Improvement, Public.** Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the City may ultimately assume the responsibility for maintenance and operation.
- (28) **Irrevocable Letter of Credit.** An agreement guaranteeing payment for subdivision improvements, entered into by a bank, savings and loan, or other financial institution which is authorized to do business in this State and which has a financial standing acceptable to the City, and which is approved, as to form, by the City Attorney.
- (29) **Land Division.** A division of a parcel of land where the act of division, including by certified survey, creates less than five (5) lots, parcels or building sites of thirty-five (35) acres each or less in area.
- (30) **Local Street.** A street of little or no continuity designed to provide access to abutting property and leading into collector streets.
- (31) **Lot.** A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter and any applicable zoning ordinance.
- (32) **Lot, Area.** The area contained within the exterior boundaries of a lot excluding streets, and land under navigable bodies of water.
- (33) **Lot, Corner.** A lot abutting intersecting streets at their intersection.
- (34) **Lot Depth.** The average dimension of a parcel measured from the rear lot line to the front lot line along each side yard setback.
- (35) **Lot Lines.** The peripheral boundaries of a lot as defined herein.
- (36) **Lot, Double Frontage.** A lot, other than a corner lot, with frontage on more than one (1) street. Double frontage lots shall normally be deemed to have two (2) front yards and two (2) side yards and no rear yard. Double frontage lots shall not

- generally be permitted unless the lot abuts an arterial highway. Double frontage lots abutting arterial highways should restrict direct access to the arterial highway by means of a planting buffer or some other acceptable access buffering measure.
- (37) **Lot, Reversed Corner.** A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.
- (38) **Lot, Through.** A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a "through lot," both street lines shall be deemed front lot lines.
- (39) **Lot Width.** The width of a parcel of land measured along the front building line.
- (40) **Major Thoroughfare.** A street used or intended to be used primarily for fast or heavy through traffic. Major thoroughfares shall include freeways, expressways and other highways and parkways, as well as arterial streets.
- (41) **Master Plan.** An extensively developed plan, map, or other document pertaining to planning and adopted by the Common Council or other City agency which may pertain to the division of lands, including the Comprehensive Development Plan, the Official Map, comprehensive utility plans, and other planning documents including proposals for future land use, transportation, urban redevelopment and public facilities. Devices for the implementation of these plans, such as ordinances pertaining to zoning, official map, land division, and building development and capital improvement plans shall be considered as planning documents within this definition.
- (42) **Minor Street.** A street used, or intended to be used, primarily for access to abutting properties; also referred to as a "local street."
- (43) **Minor Land Division (Certified Survey).** Any division of land not defined as a "subdivision". Minor land division include the division of land by the owner or subdivider resulting in the creation of two (2), but not more than four (4) parcels or building sites, any one of which is five (5) acres or less in size; or the division of a block, lot or outlot within a recorded subdivision plat existing for at least five (5) years into not more than four (4) parcels or building sites without changing the exterior boundaries of said block, lot or outlot. Such minor land divisions shall be made by a certified survey map.
- (44) **National Map Accuracy Standards.** Standards governing the horizontal and vertical accuracy of topographic maps and specifying the means for testing and determining such accuracy, endorsed by all federal agencies having surveying and mapping functions and responsibilities.
- (45) **Navigable Water.** Lake Michigan, Lake Superior, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages, and other water within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. The Wisconsin Supreme Court has declared as navigable, bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. [Muench v. Public



- Service Commission, 261 Wis. 2d 492 (1952) & Degaynor and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)].
- (46) **Official Map.** A map indicating the location, width, and extent of existing and proposed streets, highways, drainageways, parks, playgrounds, and other facilities, as adopted by the Common Council pursuant to Chapter 62, Wis. Stats.
- (47) **Outlot.** A parcel of land, other than a lot, so designated on a plat or certified survey and which is not intended for building or structure development, in the proposed land division, or is an otherwise undefined territory in a plat.
- (48) **Owner.** Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these, having any pecuniary interest in lands regulated by this Chapter.
- (49) **Parcel.** Contiguous lands under the control of a subdivider whether or not separated by a combination of streets, exterior subdivision boundary lines, streams, or other water bodies.
- (50) **Parking Space.** An off-street area suitable to be used for parking a passenger automobile.
- (51) **Person.** Includes the plural as well as the singular and may mean any individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity.
- (52) **Planned Commercial Site.** A specified area of land comprising one (1) or more contiguous ownership parcels or building sites for nonresidential uses and which area is legally limited by a reciprocal land use agreement and plan of building placement, reciprocal use of off-street parking facilities and reciprocal use of ingress and egress facilities for each building, loading and parking site. A planned commercial site must have a plan and reciprocal land use agreement approved by the City recorded in the office of the County Register of Deeds. An approved plan and reciprocal land use agreement may not be changed without approval by the City. No portion of a planned commercial site may include or front on a street, highway, walkway, parkway, or utility route designated in the Master Plan or Official Map at the time of initial recording unless the designated facility is in public ownership or easement.
- (53) **Planned Unit Development or PUD.** A form of development usually characterized by a unified site design for a number of housing units, commercial units, or industrial units, as well as mixed uses. The concept usually involves clustering of buildings, providing common open space, and mixing different types of building density. It is hereby declared that regulating planned unit developments require greater involvement of public officials in site plan review and development aspects of both zoning and land division regulation since such developments require exceptions from both types of regulation.
- (54) **Pedestrian Pathway.** A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.

- (55) **Plat.** The map, drawing or chart on which the subdivider's plat of subdivision is presented to the City for approval.
- (56) **Preliminary Plat.** The Preliminary Plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Plan Commission for its consideration as to compliance with the Comprehensive Development Plan and these regulations along with required supporting data. A preliminary plat precisely describes the locations and exterior boundaries of the parcel proposed to be divided, and shows the approximate location of lots and other improvements.
- (57) **Protective Covenants.** Contracts entered into between private parties or between private parties and public bodies pursuant to Sec. 236.293, Wis. Stats., which constitute a restriction on the use of all private or platted property within a subdivision for the benefit of the public or property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.
- (58) **Public Way.** Any public road, street, highway, walkway drainageway, or part thereof.
- (59) **Replat.** The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.
- (60) **Residential Dwelling Unit or Dwelling Unit.** A single family dwelling or part of a duplex, apartment, or other multiple family dwelling occupied by one (1) family or one (1) distinct set of inhabitants or occupants.
- (61) **Right-of-Way.** A public way dedicated to the public for its intended use.
- (62) **Setbacks.** The standards for setbacks shall be as defined in the City Zoning Code.
- (63) **Shorelands.** Those lands within the following distances: one thousand (1,000) feet from the high-water elevation of navigable lakes, ponds and flowages or three hundred (300) feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
- (64) **Soil Mapping Unit.** Soil type, slope, and erosion factor boundaries as shown on the operational soil survey maps prepared by the U.S. Soil Conservation Service.
- (65) **Street.** A public way for pedestrians and vehicular traffic and utility access including but not limited to highways, thoroughfares, parkways, through highways, roads, avenues, boulevards, lanes, places, and courts, and any pavements, turf, fixtures, facilities, structures, plantings, signs, and other elements of the right-of-way.
- (66) **Structure.** Anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground, excepting public utility fixtures and appurtenances.
- (67) **Subdivider.** Any person, firm, corporation, agent, partnership, or entity of any sort, which divides or proposes to divide or replat land in any manner, including such heirs and assigns as may be responsible for the obligations of the subdivider under the provisions of this Chapter.

- (68) **Subdivider's Agreement.** An agreement, by which the City and the subdivider agree in reasonable detail as to all of those matters which the provisions of these regulations permit to be covered by the subdivider's agreement, and which shall not come into effect unless and until an irrevocable letter of credit or other appropriate surety has been issued to the City.
- (69) **Subdivision.** Subdivision is a division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development where:
- a. The act of division creates five (5) or more parcels, lots or building sites of thirty-five (35) acres each or less in area; or
  - b. Five (5) or more parcels, lots or building sites of thirty-five (35) acres each or less in area are created by successive divisions within a period of five (5) years.
- (70) **Surety Bond.** A bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider.
- (71) **Urban Service Area.** That portion of the City and the area within its extraterritorial jurisdiction which has been designated by the Common Council and approved by other appropriate agencies as the area to which services required in urban areas shall be provided in a planned and orderly process, particularly those facilities which are placed on or in the land as part of the urban development process. Such services include, but are not limited to, public sanitary and storm sewers, water supply and distribution system, streets and highways.
- (72) **Wetlands.** An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. Sec. 23.32(1), Wis. Stats.
- (73) **Wisconsin Administrative Code.** The rules of administrative agencies having rulemaking authority in Wisconsin, published in a loose-leaf, continual revision system, as directed by Sec. 35.93 and Chapter 227, Wis. Stats., including subsequent amendments to those rules.

**Section 14.1.11** Reserved for Future Use.

**Section 14.1.12** Reserved for Future Use.

**Section 14.1.13** Reserved for Future Use.

**Section 14.1.14** Reserved for Future Use.

**Section 14.1.15** Reserved for Future Use.

**Section 14.1.16** Reserved for Future Use.

**Section 14.1.17** Reserved for Future Use.

**Section 14.1.18** Reserved for Future Use.

**Section 14.1.19** Reserved for Future Use.

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## Article C: General Provisions

### Section 14.1.20 General Provisions.

- (a) **Compliance.** No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, land division, land conveyance, consolidation, or a replat as defined herein; no such subdivision, land division, land conveyance, consolidation, or replat shall be entitled to recording; and no street shall be laid out, nor improvements made to land, nor building permits issued for any land division without compliance with all requirements of this Chapter and the following:
- (1) The provisions of Ch. 236 and Sec. 82.18, Wis. Stats.
  - (2) The rules of the Division of Plumbing, Wisconsin Department of Commerce, contained in Wis. Adm. Code Chapter COMM 85 for subdivisions not served by public sewer.
  - (3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code Trans 233 for subdivisions which abut a state trunk highway or connecting street.
  - (4) The rules of the Wisconsin Department of Natural Resources contained in the Wis. Adm. Code for the Floodplain Management Program, and the Shoreland/Wetlands Management Program.
  - (5) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Common Council.
  - (6) All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.
  - (7) The City of Hillsboro Master Plan and Official Map, or components thereof:
    - a. Whenever a parcel to be subdivided embraces any part of a street, highway or greenway designated in said Master Plan or Official Map, such part of such proposed public way shall be platted and dedicated by the subdivider in the location and at a width indicated along with all other streets in the subdivision.

- b. Where a proposed school site or other public ground shown on the Master Plan or Official Map of the City of Hillsboro is located in whole or in part within the proposed subdivision, such proposed public ground or park shall be dedicated to the public when dedication is required by this Chapter or reserved for a period of up to five (5) years from the date of approval of the final plat for acquisition by the City of Hillsboro, Vernon County, or any other appropriate agency having the authority to purchase said property. The City, or other agency having the authority to purchase said property, and the subdivider shall enter into an agreement which provides for the purchase of the lands held in reserve prior to the conclusion of the five (5) year period.
- (8) All applicable rules contained in the Wis. Adm. Code not listed in this Subsection.
- (9) The City's water rules are on file with the Public Service Commission of the State of Wisconsin concerning water installations and services. These rules are incorporated herein by reference and made a part hereof as though fully set forth herein.
- (b) **Jurisdiction; Extra-Territorial Plat Approval Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the City as well as pertinent unincorporated areas within areas of statutory extraterritorial jurisdiction. The City of Hillsboro, as a Fourth Class City, has elected to approve plats under its extraterritorial plat approval jurisdiction as provided in Chapter 236 and 66.32, Wis. Stats. The provisions of this Chapter, as they apply to divisions of tracts of land into less than five (5) parcels, shall not apply to:
  - (1) Transfers of interests in land by will or pursuant to court order;
  - (2) Leases for a term not to exceed ten (10) years, mortgages or easements;
  - (3) Sale or exchange of parcels of land between adjoining property owners or where not more than one (1) additional lot is created and said lot is not less than the minimum size required by applicable laws or ordinances. No more than one (1) lot may be created in this fashion within a one (1) year period.
  - (4) Cemetery plats made under Sec. 157.07, Wis. Stats.
  - (5) Assessor's plat made under Sec. 70.27, Wis. Stats., but such assessors' plats shall comply with Secs. 236.15(1)(a) to (g) and 236.20(1) and (2)(a) to (e), Wis. Stats.
- (c) **Certified Survey.** Any division of land other than a subdivision as defined in Sec. 236.02(8), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in Sec. 236.34, Wis. Stats.
- (d) **Compliance; Issuance of Permits.** The City of Hillsboro shall not recognize, and no building or other permits shall be issued by the City authorizing the building on, occupancy, or improvement of any parcel of land not on record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been fully complied with and a resolution approving the land division has been adopted by the Common Council of the City.
- (e) **Applicability to Condominiums.** This Chapter is expressly applicable to condominium developments within the City's jurisdiction, pursuant to Sec. 703.27(1), Wis. Stats. For purposes of this Chapter, a condominium unit and any associated limited common

elements shall be deemed to be equivalent to a lot or parcel created by the act of subdivision.

- (f) **Recording of Plats or Certified Surveys.** Plats and certified surveys, approved by the Common Council of the City of Hillsboro, must be recorded together with the adopting resolution, with the Vernon County Register of Deeds within thirty (30) days of the date of the last resolution of approval and not later than six (6) months following the date of the first resolution of approval. Land divisions shall not be recognized by the City until recorded with the Register of Deeds. The volume, page, and document numbers of the recording, shall be filed with the City Clerk and Building Inspector prior to issuance of any permits. The subdivider shall file six (6) certified copies of the approved land division with the City Clerk

## Section 14.1.21 Land Suitability.

- (a) **Suitability.** No land shall be subdivided for residential, commercial or industrial use which is held unsuitable for such use by the Common Council, upon the recommendation of the Plan Commission, for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community. The Common Council, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter the Common Council, upon the recommendation of the Plan Commission, may affirm, modify, or withdraw its determination of unsuitability.
- (b) **Existing Flora.** The subdivider shall make every effort to protect and retain all existing trees, especially with a trunk diameter of six (6) inches or more, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the subdivider.
- (c) **Other Factors.**
- (1) **Floodlands.** No lot served by public sanitary sewerage facilities shall have more than fifty percent (50%) of its required lot area below an elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood, or where such data is not available, five (5) feet above the maximum flood of record. No lot one (1) acre or less in area served by an on site sanitary sewage disposal (septic tank) system shall include floodlands. All lots more than one (1) acre in area served by a septic tank system shall contain not less than forty thousand (40,000) square feet of land which is above flood protection elevation at least two (2) feet

above the elevation of the one hundred (100) year recurrence interval flood, or where such data is not available, five (5) feet above the maximum flood of record.

(2) **Filled Lands.**

a. Lands made, altered, or filled with non-earth materials within the preceding twenty (20) years shall not be divided into building sites which are to be served by soil absorption waste disposal systems except where soil tests prepared by a professional soil scientist clearly show that the soils are suited to such use. Soil reports shall include, but need not be limited to, an evaluation of soil bearing capacity, and soil compaction. To accomplish this purpose, a minimum of one (1) test per acre shall be made initially. The City does not guarantee, warrant, or represent that the required samples represent conditions on an entire property and thereby asserts that there is no liability on the part of the Common Council, its agencies or employees for sanitary problems or structural damages that may occur as a result of reliance upon such tests.

b. Lands made, altered, or filled with earth within the preceding seven (7) years shall not be divided into building sites which are to be served by soil absorption waste disposal systems except where soil tests prepared by a professional soil scientist clearly show that the soils are suited to such use. Soil reports shall include, but need not be limited to, an evaluation of soil permeability, depth to groundwater, depth to bedrock, soil bearing capacity, and soil compaction. To accomplish this purpose, a minimum of one (1) test per acre shall be made initially. The City does not guarantee, warrant, or represent that the required samples represent conditions on an entire property and thereby asserts that there is no liability on the part of the Common Council, its agencies, or employees for sanitary problems or structural damages that may occur as a result of reliance upon such tests.

(3) **Slopes.** Lands having a slope of twelve percent (12%) or more shall be maintained in permanent open space use. No lot shall have more than fifty percent (50%) of its minimum required area in slopes of ten percent (10%) or greater.

(4) **Bedrock.** Lands having bedrock within six (6) feet of the natural undisturbed surface shall not be divided into building sites to be served by on site soil absorption sewage disposal systems.

(5) **Groundwater.** Lands having groundwater within six (6) feet of the natural undisturbed surface shall not be divided into building sites to be served by soil absorption sewage disposal systems.



## Section 14.1.22 Condominium Developments.

(a) **Purpose.**

- (1) The City of Hillsboro Common Council hereby finds that certain issues arise in condominium developments that require limited applicability of this Chapter to condominium developments. The State Legislature has recognized that subdivision ordinances may apply to condominiums but that subdivision ordinances shall not impose burdens upon condominiums that are different from those imposed on other property of a similar character not subject to a declaration of condominium.
- (2) The factor that makes this Chapter applicable to a condominium development is the creation of multiple, distinct property entities at or near the ground surface, subject to property taxation as separate "parcels," with each property entity having different ownership and management. The City determines that this factor makes a condominium development dissimilar, both physically and in ownership, from developments in which the land and improvements are under unitary ownership, management, and control.
- (3) Thus, the Common Council hereby finds that new condominium developments can place impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. These impacts include:
  - a. Additional population density.
  - b. Possibility of use of particular land in a manner unsuitable to the land's characteristics.
  - c. Additional demands upon City area parks, recreation areas, utility facilities and schools.
  - d. Additional traffic and street use.

(b) **Portions of Chapter Applicable to Condominium Developments.** The following Sections of this Chapter shall apply to condominium developments:

- (1) Section 14.1.21 relating to land suitability and construction practices.
- (2) Sections 14.1.30 through 14.1.33 relating to preliminary and final plat approval. The technical requirements for preliminary plats set forth in Section 14.1.40 shall not apply, since condominiums have separate technical standards set forth in Chapter 703, Wis. Stats.
- (3) Article I relating to fees for review.
- (4) Article F relating to required improvements.
- (5) Article G relating to design standards for improvements.
- (6) Article H relating to dedication requirements.

(c) **Exceptions.** This Section shall not apply to the following condominiums:

- (1) Any condominium plat recorded prior to the effective date of this Chapter.
- (2) Any conversion of a structure or structures in existence on the effective date of this Chapter to a condominium after the effective date of this Chapter.

**Section 14.1.23** Reserved for Future Use.

**Section 14.1.24** Reserved for Future Use.

**Section 14.1.25** Reserved for Future Use.

**Section 14.1.26** Reserved for Future Use.

**Section 14.1.27** Reserved for Future Use.

**Section 14.1.28** Reserved for Future Use.

**Section 14.1.29** Reserved for Future Use.

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## Article D: Plat Review and Approval

### Section 14.1.30 Preliminary Consultation.

- (a) Before filing of an application for the approval of a Preliminary Plat or certified survey map, the subdivider is encouraged to submit a conceptual plan and to consult with the Plan Commission and City staff for advice regarding general subdivision requirements. Information on meeting dates, agenda deadlines and filing requirements may be obtained from the City Clerk. The conceptual plan would show the relationship of the proposed subdivision or certified survey to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the subdivider of the purpose and objectives of these regulations, the Master Plan, comprehensive plan components and plan implementation devices of the City and to otherwise assist the subdivider in planning his development. The subdivider will gain a better understanding of the subsequent required procedures.
- (b) Prior to filing an application for the approval of a Preliminary Plat, the subdivider should attend a preliminary consultation meeting with the Plan Commission. The Plan Commission may waive this requirement for small projects.

### Section 14.1.31 Submission of Preliminary Plat.

- (a) **Submission.** Before submitting a Final Plat for approval, the subdivider shall prepare a Preliminary Plat and a letter of application. The subdivider shall submit fifteen (15) copies of the Preliminary Plat. The Preliminary Plat shall be prepared in accordance with the standards of this Chapter, particularly Section 14.1.40, and the subdivider shall file copies of the Plat and the application as required by this Section with the City Clerk at least ten (10) days prior to the meeting of the Plan Commission at which action is desired. The City Clerk shall submit copies of the Preliminary Plat to the Plan Commission, and to the City Engineer for review and written report of his recommendations and reactions to the proposed plat.
- (b) **Public Improvements.** Simultaneously with the filing of the Preliminary Plat of map, the owner shall file with the City Clerk a concept report addressing sewer and water service feasibility, drainage facilities and centerline profiles showing streets in the subdivision.

- (c) **Property Owners Association; Restrictive Covenants.** A draft of the legal instruments and rules for proposed property owners associations, when the subdivider proposes that common property within a subdivision would be either owned or maintained by such an organization of property owners or a subunit of the City pursuant to Sec. 236.293, Wis. Stats., and proposed deed restrictions or restrictive covenants, shall be submitted at the time of filing the Preliminary Plat with the City Clerk.
- (d) **Affidavit.** The surveyor preparing the Preliminary Plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this Chapter.
- (e) **Supplementary Data to be Filed with Preliminary Plat.** The following shall also be filed with the Preliminary Plat:
  - (1) **Use Statement.** A statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population; and
  - (2) **Zoning Changes.** If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and
  - (3) **Area Plan.** Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the subdivider shall comply with the requirements of Section 14.1.40(a)(5) for the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.
- (f) **Street Plans and Profiles.** The subdivider shall provide preliminary street profiles showing existing ground surface, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested.
- (g) **Soil Testing.** The subdivider may be required to provide a preliminary soils report, listing the types of soil in the proposed subdivision, their effect on the subdivision and a proposed soil testing and investigation program. Pursuant to the public policy concerns prescribed in Section 14.1.21, the City Engineer may, in addition, require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table. A minimum of one boring per thousand feet of centerline street to a minimum depth of fifteen (15) feet is required.
- (h) **Referral to Other Agencies and Utilities.**
  - (1) **Utilities.** The subdivider shall also forward a copy to the local electric, gas, cable television and telephone utilities. When the subdivider expects the City to act as the transmitting authority in accordance with Sec. 236.12, Wis. Stats., the application shall state that the transmittal responsibility lies with the City, shall contain a list of the other authorities to which the plat must be submitted, and shall be accompanied by such additional fees and copies of the plat as are necessary to be transmitted to such authorities.

- (2) **State Agencies.** The City Clerk shall, within two (2) days after the filing of the Preliminary Plat, transmit copies to the Director of the Planning Function in the Wisconsin Department of Commerce, additional copies to the Director of the Planning Function for retransmission of copies to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street, copies to the Wisconsin Department of Natural Resources if shoreland or floodlands are contained within the proposed subdivision, and an adequate number of copies to the Plan Commission. The Wisconsin Department of Development; Wisconsin Department of Natural Resources and the Wisconsin Department of Transportation shall be hereinafter referred to as objecting agencies.
- (3) **Alternative Method.** In lieu of the procedure set forth in Subsection (h)(2) above, the subdivider may, pursuant to Sec. 236.12(6), Wis. Stats., submit the original drawing of the preliminary plat directly to the Director of the Planning Function of the Wisconsin Department of Commerce who will prepare and forward copies of the plat at the subdivider's expense to the objecting agencies. When the subdivider elects to use this alternative procedure, it shall be the responsibility of the subdivider to submit the additional copies required herein by Subsections (h)(4) and (5) below.
- (4) **City Agencies.** The City Clerk shall also transmit two (2) copies of the preliminary plat to the Plan Commission and additional copies to the water and sewer superintendent and all affected City committees, commissions or departments for their review and recommendations concerning matters within their jurisdiction. The recommendations of the affected committees, commissions, and departments shall be transmitted to the City Plan Commission for conformance with this Chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components, and neighborhood plans.
- (5) **Extraterritorial Requests.** The City Clerk shall also transmit one (1) copy each of the preliminary plat to the respective Township Boards for their review and recommendation concerning matters within the township area affected by the City's extraterritorial jurisdiction. Their recommendations shall be transmitted to the Plan Commission within thirty (30) days from the date the plat is filed.
- (6) **Action by Outside Agencies.** Within twenty-five (25) days of the date of receiving the copies of the Preliminary Plat, any state or county agency having authority to object under Subsection (h)(1) above shall notify the subdivider and all approving or objecting authorities of any objection based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover, or, if all objections have been satisfied, it shall so certify on the face of a copy of the plat and return that copy to the approving authority from which it was received. The plat shall not be approved or deemed approved until any objections have been satisfied. If the objecting agency fails to act within the twenty-five (25) day limit, it shall be deemed to have no objection to the plat. The recommendations of City agencies shall also be transmitted to the Plan Commission within twenty-five (25) days from the date the plat is filed.

## Section 14.1.32 Preliminary Plat Review and Approval.

- (a) **Advisory Plan Commission Review.** After review of the Preliminary Plat and negotiations with the subdivider on changes deemed advisable and the kind and extent of public improvements which will be required, the Plan Commission shall, within sixty (60) days of filing, or within such time as extended by agreement with the subdivider, recommend to the Common Council approval, conditional approval, or rejection of the plat. The subdivider shall be notified in writing of any conditions for approval of the reasons for rejection. Such action of the Plan Commission shall be submitted to the Common Council for approval and the subdivider shall be notified in writing of any changes or modifications in the action of the Plan Commission and the reasons therefor.
- (b) **Council Action.**
- (1) After receipt of the Plan Commission's recommendation, the Common Council shall, within ninety (90) days of the date the plat was filed with the City Clerk, approve, approve conditionally or reject such plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider.
  - (2) Failure of the Common Council to act within ninety (90) days or mutual extension thereof shall constitute an approval of the Preliminary Plat, unless other authorized agencies object to the plat.
  - (3) The City Clerk shall communicate in writing to the subdivider the action of the Common Council. If the Preliminary Plat is approved, the City Clerk shall endorse it for the Common Council.
- (c) **Effect of Preliminary Plat Approval.** Approval or conditional approval of a Preliminary Plat shall entitle the Final Plat to approval provided the Final Plat conforms substantially to the Preliminary Plat, including any conditions of that approval, conforms to applicable local plans and ordinances, and is submitted within six (6) months of the last required approval of the Preliminary Plat. If the Preliminary Plat is approved, the Final Plat must be approved by the Common Council within six (6) months or the Preliminary Plat approval is void. Previous Preliminary Plat approvals shall not constitute grounds for approval upon resubmission. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat which will be subject to further consideration by the Plan Commission and Common Council at the time of its submission.
- (d) **Preliminary Plat Amendment.** Should the subdivider desire to amend the Preliminary Plat as approved, he may resubmit the amended plat which shall follow the same procedure outlined herein, unless the amendment is, in the opinion of the Plan Commission, of such scope as to constitute a new plat, in which such case it shall be refiled.

## **Section 14.1.33 Final Plat Review and Approval.**

**(a) Filing Requirements.**

- (1) The subdivider shall prepare a Final Plat and a letter of application in accordance with this Chapter and shall file fifteen (15) copies of the Plat and the application with the City Clerk at least twenty-one (21) days prior to the meeting of the Plan Commission at which action is desired. The owner or subdivider shall file twenty (20) copies of the Final Plat not later than six (6) months after the date of approval of the Preliminary Plat; otherwise, the Preliminary Plat and Final Plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the City. The owner or subdivider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the City Attorney may require showing title or control in the applicant. A written transmittal letter shall identify all substantial changes that have been made to the plat since the Preliminary Plat. When the subdivider expects the City to act as the transmitting authority in accordance with Sec. 236.12, Wis. Stats., the application shall state that transmittal responsibilities lie with the City and shall contain a list of the other authorities to which the plat must be subjected and shall be accompanied by such additional fees and copies of the plat as are necessary to be transmitted to such authorities.
- (2) If the City is acting as the transmitting authority, the City Clerk shall, within two (2) days after filing, transmit copies to the Director of the Planning Function in the Wisconsin Department of Commerce, additional copies to the Director of the Planning Function for retransmission of copies to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street, copies to all affected City boards, commissions and committees, and the original Final Plat, the Wisconsin Department of Natural Resources if shorelands or floodlands are contained within the proposed subdivision, and adequate copies to the Plan Commission. The Wisconsin Department of Development, the Wisconsin Department of Natural Resources and the Wisconsin Department of Transportation shall be hereinafter referred to as objecting agencies.
- (3) In lieu of the procedure set forth in Subsection (a)(2) above, the subdivider may, pursuant to Sec. 236.12(6), Wis. Stats., submit the original drawing of the final plat directly to the Director of the planning function of the Wisconsin Department of Commerce who will prepare and forward copies of the plat at the subdivider's expense to the objecting agencies. When the subdivider elects to use this alternative procedure, it is the responsibility of the subdivider to submit sufficient additional copies of the final plat to the City Clerk for review by the Plan Commission.
- (4) The Final Plat shall conform to the Preliminary Plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Sec. 236.12(2).

- (5) The City Clerk shall refer copies of the Final Plat to the Plan Commission, and one (1) copy to the City Engineer. The recommendations of the Plan Commission and City Engineer shall be made within thirty (30) days of the filing of the Final Plat. The City Engineer shall examine the plat or map and preliminary plans and specifications of public improvements for technical details and, if he finds them satisfactory, shall so certify in writing to the Plan Commission. If the plat or map or the plans and specifications are not satisfactory, the City Engineer shall return them to the owner and so advise the Plan Commission.
- (b) **Plan Commission Review.**
- (1) The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this Chapter and all applicable ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and shall recommend approval, conditional approval or rejection of the Plat to the Common Council.
  - (2) The objecting state agencies shall, within twenty (20) days of the date of receiving their copies of the Final Plat, notify the subdivider and all other approving and objecting agencies of any objections, except that the Wisconsin Department of Development has thirty (30) days in which to make objections. If there are no objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the City. If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objection to the Plat.
  - (3) If the Final Plat is not submitted within six (6) months of the last-required approval of the Preliminary Plat, the Plan Commission may refuse to approve the Final Plat.
  - (4) The Plan Commission shall, within forty-five (45) days of the date of filing of the Final Plat with the City Clerk, recommend approval, conditional approval or rejection of the Plat and shall transmit the Final Plat and application along with its recommendations to the Common Council. The Plan Commission may hold the matter in abeyance if there is incomplete or inadequate information.
- (c) **Council Review and Approval.**
- (1) The Common Council shall, within sixty (60) days of the date of filing the original Final Plat with the City Clerk, approve or reject such Plat unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Common Council may not inscribe its approval on the Final Plat unless the City Clerk certifies on the face of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within twenty (20) days or, if filed, have been met.
  - (2) The Common Council shall, when it determines to approve a Final Plat, give at least ten (10) days' prior written notice of its intention to the Municipal Clerk of any municipality within one thousand (1,000) feet of the Final Plat.



- (3) Failure of the Common Council to act within sixty (60) days, the time having not been extended by mutual written agreement and no unsatisfied objections having been filed, the plat shall be deemed approved.
- (d) **Recordation.** After the Final Plat has been approved by the Common Council, required improvements are either installed or a contract and sureties insuring their installation is filed, all outstanding special assessments have been made, and park and recreation fees required by this Chapter have been paid to the City, the City Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the county register of deeds. The register of deeds cannot record the Plat unless it is offered within six (6) months from the date of last approval. Recording fees shall be paid by the subdivider.
- (e) **Final Copies.** The subdivider shall file ten (10) copies of the Final Plat as approved with the City Clerk for distribution to the approving agencies, affected utilities and other affected agencies for their files. One (1) Mylar copy shall also be filed with the City Clerk.
- (f) **Partial Platting.** If permitted by the Common Council, the approved preliminary plat may be final platted in phases with each phase encompassing only that portion of the approved preliminary plat which the subdivider proposed to record at one time; however, it is required that each such phase be final platted and be designated as a phase of the approved preliminary plat.

### **Section 14.1.34 Land Divisions and Consolidations by Certified Survey Map.**

- (a) **Procedure.**
  - (1) Application. Any land divider who shall divide land located in the City of Hillsboro which results in a land division shall prepare a certified survey map in accordance with Sec. 236.34, Wis. Stats. and all of the requirements in this chapter which may apply. All certified survey maps shall be submitted to the City Administrator for approval and shall, after approval, be recorded in the office of the Vernon County Register of Deeds.
  - (2) City Administrator and Mayoral Decision. The City Administrator and Mayor shall, within thirty (30) working days after submission, approve, approve conditionally, or reject the certified survey map based on a determination as to its conformance with the provisions of this chapter. In the event of rejection or conditional approval, the land divider may appeal the decision of the City Administrator and Mayor to the City Council.
- (b) **Data Submission Requirements.** Each certified survey map shall be prepared by a registered land surveyor at a scale of not more than four hundred (400) feet to one (1) inch. The certified survey map shall be submitted by a letter of transmittal enclosing six (6) copies of the map. All certified survey maps shall include:

- (1) The name and address of the individual dividing the lands.
  - (2) The date of the survey.
  - (3) A metes and bounds description referenced to a line and a corner of the U.S. Public land Survey, or referenced to an adjoining recorded plat.
  - (4) The locations, rights-of-way widths and names of existing or proposed streets, alleys or other public way; easements and railroad and utility rights-of-way included within or adjacent to the proposed land division.
  - (5) The locations of existing property lines, buildings, drives, streams and water courses, lakes, marshes and other significant features within the parcel(s) being created. Buildings or structures and their locations on the parcels shall be dimensioned to the nearest 0.1 foot where the locations of such buildings or structures will be critical in relation to proposed property boundaries or to zoning yard requirements.
  - (6) The area(s) of the parcel(s) being created.
  - (7) Utility easements where requested.
  - (8) The approximate locations of existing on site sewage disposal systems.
  - (9) Access restrictions where applicable.
  - (10) When dedication of lands is required, a governmental jurisdiction certificate of acceptance provided legibly on the face of the map.
  - (11) When dedication of lands is required, and owner's certificate of the dedication prepared in accordance with Sec. 236.34(1)(e), Wis. Stats., provided legibly on the face of the map.
  - (12) The following certificate provided legibly on the face of the map: "Approved for recording per the City Administrator and Mayor of the City of Hillsboro"
- (c) The following certificate provided legibly on the face of the map: "As owners we certify that we caused the land described on this certified survey map to be surveyed, divided, mapped and dedicated as represented on this certified survey map. We also certify that this certified survey map is required by sec. 14.1.34, City of Hillsboro Code of Ordinances, to be submitted to the City Administrator of the City of Hillsboro." The certificate shall be signed by the owner, the owner's spouse and all person holding an interest in the fee of record or by being in possession and, if the land is mortgaged, by the mortgagee of record and the signatures shall be authenticated or acknowledged in accordance with s. 706.06 or s. 706.07, Wis. Stats.
- (d) **Re-Approvals.** Submittals of previously approved Certified Survey Maps for replatting or reapproval by the Mayor and City Administrator shall be in accordance with Section 14.1.35.

## **Section 14.1.35      Replat.**

- (a) Except as provided in Sec. 70.27(1), Wis. Stats., when it is proposed to replat a recorded subdivision, or part thereof, so as to change the exterior boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or

alter the recorded Plat as provided in Secs. 236.40 through 236.44, Wis. Stats. The subdivider or person wishing to replat shall then proceed, using the approval procedures for Preliminary and Final Plats prescribed in this Article.

- (b) Whenever an approved Final Plat is submitted for reapproval within six (6) months of the initial resolution approving the plat, and which is substantially in conformance with the approved plat, and which has not been recorded with the Register of Deeds, said plat shall be reapproved by the Mayor and City Administrator. No Final Plats shall be reapproved by the Mayor and City Administrator following the expiration of the six (6) month period. Such plats shall be submitted as a new plat. All previous approvals shall be null and void and shall have no further bearing on the subsequent review and approval of the plat by the City.
- (c) Where lots are more than double the minimum size required for the applicable zoning district, the City Administrator may require that such lots be arranged so as to allow resubdivision of such parcels into normal lots in accordance with the provisions of the Chapter.

### **Section 14.1.36 Determination of Adequacy of Public Facilities and Services.**

- (a) A Preliminary Plat, Final Plat or certified survey shall not be approved unless the City Administrator and the Mayor determine that adequate public facilities and public services will be available to meet the needs of the proposed land division and that no public funds other than those already provided in an adopted capital or operating budget are required.
- (b) The applicant shall furnish any data requested by the City Clerk who shall transmit this information to the appropriate commission(s), committee(s) and staff for review; the City Clerk shall act as coordinator of the reports from staff to the Mayor and City Administrator on the adequacy of water, sanitary and storm sewers, fire service, police, parks and open space and recreation facilities, transportation facilities, traffic counts, and schools.
- (c) Public facilities and public services for a proposed land division may be found to be adequate when the following conditions exist:
  - (1) The proposed land division is located in an urban service area where adequate sewer service is presently available for extension, under construction or designated by the Common Council for extension of sewer service, and funds are specifically provided for such extension either from public or private financing. The Mayor and City Administrator shall consider the recommendations of the City Engineer and the appropriate committee(s) on the capacity of trunk lines and of sewerage treatment facilities and any other information presented.
  - (2) The proposed land division is located within an urban service area contiguous to an arterial transmission water main of adequate capacity for the proposed development or if the water distribution system that is needed is under construction or scheduled

- for construction and funds, either public or private, are available for the program. The Mayor and City Administrator shall consider the recommendations from the City's utilities and the City Engineer and the appropriate committee(s) on line capacities, water sources and storage facilities, as well as any other information presented.
- (3) The City Clerk verifies to the Mayor and the City Administrator that adequate funds, either public or private, are available to insure the installation of all necessary storm water management facilities.
  - (4) The City Administrator can demonstrate that street maintenance and refuse collection services, either public or private, are so situated that adequate and timely service can be provided so as not to involve danger or injury to the health, safety or general welfare to the future residents of the proposed land division or existing City residents.
  - (5) The City Administrator verifies that the future residents of the proposed land division can be assured park, recreation and open space facilities and services which meet the standards of the City's Master Plan.
  - (6) The Police Department, E.M.S. and Fire Department verify that timely and adequate service can be provided to the residents.
  - (7) The proposed land division is accessible by existing or officially mapped, publicly maintained, all-weather roadway system, adequate to accommodate both existing traffic and that traffic to be generated by the proposed land division in accordance with the Official Map and City Standards.
- (d) Where the Plan Commission and the Common Council determine that one (1) or more public facilities or services are not adequate for the proposed development, but that a portion of the area could be served adequately, or that careful phasing of the development could result in all public facilities and public services being adequate, conditional approval may include only such portions or may specify phasing of the development.
  - (e) No land shall be divided which has been officially mapped as public lands storm water management facility or is determined by the Common Council to be unsuitable for use by reason of flooding, bad drainage, soil or rock formations with severe limitations for development, severe erosion potential or unfavorable topography, or any other feature likely to be harmful to health, safety or welfare of future residents or landowners in the proposed land division or of the community.
  - (f) The above requirements shall apply to those areas outside the corporate limits of the City of Hillsboro and within the City's extraterritorial limits. Areas within the City capable of being served by public sewer and water shall be required to connect to the City of Hillsboro public water distribution and/or public sewerage system as required by the City Engineer.

### Section 14.1.37 Disclaimers on Approvals.

- (a) The purpose of requiring approvals under this Chapter is to insure the health, safety, morale, comfort, prosperity and general welfare of the City of Hillsboro. This Chapter shall not be interpreted as placing any responsibility or liability on any City official, City employee or the City as a municipal corporation for the granting of approval or the denial of any approval. All approvals rendered as part of this Chapter shall be considered as being approved conditionally based on the information and circumstances apparent at that time.
- (b) Approvals issued by the City shall not be construed as an assumption or expression of any responsibility, warranty or guarantee for the design or construction of any improvements within the land division.

### Section 14.1.38 Height Structures In Vicinity of Airport

- (a) **Definitions.**
  - (1) **Airport** means the Joshua Sanford airport in the City of Hillsboro.
  - (2) **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.
  - (3) **Person** means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
  - (4) **Structure** means any object, including a mobile object, constructed, installed, or located by a person.
  - (5) **Height** means the elevation above Mean Sea Level of the top of the structure, including any appurtenance installed thereon.
  - (6) **Permit** means written permission from the City of Hillsboro on a form provided by the municipality stating that the proposed structure site either conforms to the Height Limitation Zoning Ordinance or has been granted a variance, per Section (e).
- (b) **Airport Zones.** All zones established by this section are as shown on the map dated 05-07-03 entitled, "Height Limitation Zoning Map, Joshua Sanford Field, Hillsboro, Wisconsin", which is attached hereto and adopted as part of this ordinance.
- (c) **Nonconforming Uses.**
  - (1) **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 (e)(2). 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.

- (2) **Removal by Purchase.** This section shall not interfere with the removal of nonconforming uses by purchase or the use of eminent domain.
- (d) **Airport Zone Height Limitations.** No structure shall be constructed, altered or located to a height in excess of the elevation indicated on the map referred to in Section (b) of this ordinance. Any structure constructed, altered, or located in violation of this ordinance shall be removed at the owner's expense.
- (e) **Permits.**
  - (1) **Future Uses.** No structure shall hereafter be constructed or located that exceeds the height indicated in any zone created by Section (b) of this ordinance until the owner or his/her agent shall have applied in writing and obtained a permit from the 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.
  - (2) **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 (e)(1) 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.
  - (3) **Exemptions.** Permits are not required for structures which are less than thirty-five (35) feet in height above ground level at the structure site.
  - (4) **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.
  - (5) **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.
- (f) **Administration** It shall be the duty of the 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 shall be granted or denied within 30 days of the date of filing. Appeals shall be transmitted by the Zoning Administrator to the Board of Zoning Appeals for hearing and decision.
- (g) **Penalties.** Any person violating any of the provisions of this ordinance shall, upon conviction, forfeit not less than five hundred (\$500) dollars nor more than one thousand (\$1,000) dollars for such offense. Each day that a violation continues to exist shall constitute a separate offense.
- (h) **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 be 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.

- (i) **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.

**Section 14.1.39**      **Reserved for Future Use.**

## Title 14 - Chapter 1

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# Article E: Technical Requirements for Plats and Certified Survey

### Section 14.1.40 Technical Requirements for Preliminary Plats.

- (a) **General.** A Preliminary Plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on mylar or paper of good quality at a scale of not more than one hundred (100) feet to the inch and shall show correctly on its face the following information:
- (1) **Title** under which the proposed subdivision is to be recorded, which name shall not duplicate or be alike in pronunciation of the name of any plat heretofore recorded in the City unless considered an addition to the subdivision.
  - (2) **Legal Description/Location** of the proposed subdivision by government lot, quarter section, township, range; county and state.
  - (3) **Date, Scale and North Point.**
  - (4) **Names, Telephone Numbers, and Addresses** of the owner, and any agent having control of the land, engineer, subdivider, land surveyor preparing the plat.
  - (5) **Entire Area** contiguous to the proposed plat owned or controlled by the subdivider shall be required by the Common Council or Plan Commission to be included on the Preliminary Plat even though only a portion of said area is proposed for immediate development. Where a subdivider owns or controls adjacent lands in addition to those proposed for development at that time, he/she shall submit a concept plan for the development of the adjacent lands showing streets, utilities, zoning districts, and other information as may affect the review of the Preliminary Plat in question. The City Engineer may waive these requirements where adjacent development patterns have already been established.
- (b) **Plat Data.** All Preliminary Plats shall show the following:
- (1) **Exact Length and Bearing** of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
  - (2) **Locations of all Existing Property Boundary Lines**, structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.



- (3) **Location, Right-of-Way Width and Names** of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
- (4) **Location and Names of any Adjacent Subdivisions**, parks and cemeteries and owners of record of abutting unplatted lands.
- (5) **Type, Width and Elevation** of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations.
- (6) **Location, Size and Invert Elevation** of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catchbasins, hydrants, electric and communication facilities, whether overhead or underground and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.
- (7) **Corporate Limit Lines** within the exterior boundaries of the plat or immediately adjacent thereto.
- (8) **Existing Zoning** on and adjacent to the proposed subdivision.
- (9) **Contours** within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum at vertical intervals of not more than two (2) feet. At least two (2) permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the bench marks clearly and completely described.
- (10) **High-Water Elevation** of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom.
- (11) **Water Elevation** of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom at the date of the survey.
- (12) **Floodland and Shoreland Boundaries** and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, two (2) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within one hundred (100) feet therefrom.
- (13) **Location, Width and Names** of all proposed streets and public rights-of-way such as alleys and easements.
- (14) **Approximate Dimensions of All Lots** together with proposed lot and block numbers. The area in square feet of each lot shall be provided.

- (15) ***Location and Approximate Dimensions*** of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use.
- (16) ***Approximate Radii of all Curves.***
- (17) ***Any Proposed Lake and Stream Access*** with a small drawing clearly indicating the location of the proposed subdivision in relation to access.
- (18) ***Any Proposed Lake and Stream*** improvement or relocation, and notice of application for approval by the Division of Environmental Protection, Department of Natural Resources, when applicable.
- (19) ***Soil Tests and Reports*** as may be required by the City Engineer for the design of roadways, storm drainage facilities, on-site sewage disposal systems, erosion control facilities, and/or other subdivision improvements and features. The Plan Commission, upon the recommendation of the City Engineer, may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to groundwater table. The City does not guarantee, warrant, or represent that only those soils tested and shown to be unsuited for specific uses are the only unsuited soils within the City and thereby asserts that there is no liability on the part of the Common Council, its agencies, or employees for sanitation problems or structural damages that may occur as a result of reliance upon, and conformance with, this Chapter. Where the subdivision will not be served by public sanitary sewer service, the provisions of Ch. COMM 85, Wis. Adm. Code, shall be complied with, and the appropriate data submitted with the preliminary plat.
- (20) ***Design Features.***
  - a. Locations and widths of proposed streets, alleys, pedestrian ways and utility easements. The Plan Commission, upon the recommendation of the City Engineer, may require that the subdivider provide street plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested. All elevations shall be based upon National Geodetic Vertical Datum (NGVD), and plans and profiles shall meet the approval of the City Engineer.
  - b. Layout numbers and preliminary acreages and dimensions of lots and blocks.
  - c. Minimum front, rear, side, and street yard building setback lines.
  - d. Location and size of proposed sanitary sewer lines and water mains.
  - e. Gradients of proposed streets, including centerline profiles.
  - f. Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.
  - g. Location and description of survey monuments.
  - h. An identification system for the consecutive numbering of all blocks and lots within the subdivision.
  - i. Sites, if any, to be reserved for parks or other public uses.

- j. Sites, if any, for multi-family dwellings, shopping centers, churches, industry or other non-public uses exclusive of single-family dwellings.
  - k. Provisions for surface water management including both minor and major system components, detention/retention facilities, including existing and post development one hundred (100) year flood elevations, etc.
  - l. Potential resubdivision and use of excessively deep [over two hundred (200) feet] or oversized lots must be indicated in a satisfactory manner.
  - m. Any wetlands, floodplains, or environmentally sensitive areas provided for by any local, state or federal law.
- (21) ***Soil and Water Conservation.*** The Plan Commission, upon the recommendation of the City Engineer, after determining from a review of the preliminary plat that the soil, slope, vegetation, and drainage characteristics of the site are such as to require substantial cutting, clearing, grading, and other earthmoving operations in the development of the subdivision or otherwise entail a severe erosion hazard, shall require the subdivider to provide soil erosion and sedimentation control plans and specifications. Such plans shall generally follow the guidelines and standards set forth in the *U.S. Conservation Service Technical Guide*, and shall be in accordance with standards set forth in this Chapter.
- (22) ***Where the Plan Commission or City Engineer*** finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the Preliminary Plat, it shall have the authority to request in writing such information from the subdivider.
- (c) **Additional Information.** The Common Council, Plan Commission and/or City officials may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not planned at the time.

### **Section 14.1.41      Technical Requirements for Final Plats.**

- (a) **General.** A Final Plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Sec. 236.20, Wis. Stats., and this Chapter.
- (b) **Additional Information.** The Final Plat shall show correctly on its face, in addition to the information required by Sec. 236.20, Wis. Stats., the following:
  - (1) ***Exact Length and Bearing*** of the center line of all streets.
  - (2) ***Exact Street Width*** along the line of any obliquely intersecting street.
  - (3) ***Exact Location and Description*** of lighting utility easements.
  - (4) ***Railroad Rights-of-Way*** within and abutting the plat.
  - (5) ***All Lands Reserved*** for future public acquisition or reserved for the common use of property owners within the Plat.
  - (6) ***Special Restrictions*** required by the Common Council, upon the recommendation of the Plan Commission, relating to access control along public ways or to the provision of planting strips.

- (7) **Taxes.** Certifications by attached information showing that all taxes and special assessments currently due on the property to be subdivided have been paid in full.
- (8) **Drainage Flows.** The subdivider shall cause to be set upon the final plat arrows indicating the directions of drainage flows for each property line not fronting on a street on all parcels and along each street as will result from the grading of the site, the construction of the required public improvements, or which are existing drainage flows and will remain. The arrows indicating the directions of flows shall be appropriately weighted so as to differentiate between the minor and major [one hundred (100) year event] drainage components. The arrows shall be accompanied on the plat with the following note:

Arrows indicate the direction of drainage flows in various components resulting from site grading and the construction of required public improvements. The drainage flow components located in easements shall be maintained and preserved by the property owner.

- (9) **Groundwater Presence.** Where the ground water table is equal to or less than nine (9) feet from the proposed street centerline elevation, the subdivider shall place the following note on the plat:

Subsoil information indicates the presence of ground water conditions that may require basement elevations on Lot(s) \_\_\_\_\_ to be at elevation \_\_\_\_\_ or higher, or that a modified structural plan of the structure's foundation shall be submitted to the Building Inspector for approval with the application for a Building Permit as required information.

The elevation of the basement as described in the paragraph to be placed on the plat shall be a minimum of two (2) feet higher than the elevation of the ground water table.

- (10) **Dimensions of Lot Lines** shall be shown in feet and hundredths; no ditto marks shall be permitted. When lot lines are not at right angles to the street right-of-way line, the width of the lot shall be indicated at the building setback line in addition to the width of the lot at the street right-of-way line.
- (11) **A Numbered Identification System** for all lots and blocks.
- (12) **Railroad rights-of-way within** and abutting the plat.
- (13) **Setbacks or** building lines.
- (14) **Utility and/or drainage** easements.
- (15) **Street addresses on each lot as** determined by the City Administrator.
- (c) **Deed Restrictions.** Restrictive covenants and deed restrictions for the proposed subdivision shall be filed with the Final Plat.
- (d) **Property Owners Association.** The legal instruments creating a property owners association for the ownership and/or maintenance of common lands in the subdivision shall be filed with the Final Plat.

(e) **Survey Accuracy.**

- (1) **Examination.** The Common Council and Plan Commission, or their designees, shall examine all Final Plats within the City of Hillsboro and may check for the accuracy and closure of the survey, the proper kind and location of monuments, and legibility and completeness of the drawing.
  - (2) **Maximum Error of Closure.** Maximum error of closure before adjustment of the survey of the exterior boundaries of the subdivision shall not exceed, in horizontal distance or position, the ratio of one part in five thousand (1:5,000), nor in azimuth, four (4) seconds of arc per interior angle. If field measurements exceed this maximum, new field measurements shall be made until a satisfactory closure of the field measurements has been obtained; the survey of the exterior boundary shall be adjusted to form a closed geometric figure.
  - (3) **Street, Block and Lot Dimensions.** All street, block and lot dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary survey. If checks disclose an error for any interior line of the plat greater than the ratio of one part in three thousand (1:3,000), or an error in measured angle greater than one (1) minute of arc for any angle where the shorter side forming the angle is three hundred (300) feet or longer, necessary corrections shall be made. Where the shorter side of a measured angle is less than three hundred (300) feet in length, the error shall not exceed the value of one (1) minute multiplied by the quotient of three hundred (300) divided by the length of the shorter side; however, such error shall not in any case exceed five (5) minutes of arc.
  - (4) **Plat Location.** Where the plat is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the County or City, the tie required by Sec. 236.20(3)(b), Wis. Stats., may be expressed in terms of grid bearing and distance; and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error of closure herein specified for the survey of the exterior boundaries of the subdivision.
- (f) **Surveying and Monumenting.** All Final Plats shall meet all the surveying and monumenting requirements of Sec. 236.15, Wis. Stats. Before final approval by the City of any plat or certified survey map located outside the corporate limits of the City, but within the plat approval jurisdiction of the City, the subdivider shall give evidence that he has complied with all street and utility requirements of the town in which the land being platted is located.
- (g) **State Plane Coordinate System.** All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone.
- (h) **Certificates.** All Final Plats shall provide all the certificates required by Sec. 236.21, Wis. Stats., and in addition, the surveyor shall certify that he has fully complied with all the provisions of this Chapter.

## Section 14.1.42 Technical Requirements for Certified Survey Land Divisions; Review and Approval.

- (a) **Certified Survey Requirements.** A certified survey map prepared by a registered land surveyor shall be required for all minor land divisions. It shall comply in all respects with the requirements of Sec. 236.34, Wis. Stats. The minor subdivision shall comply with the design standards and improvement requirements set forth in this Chapter for plats.
- (b) **Submission and Review.** The subdivider is encouraged to first consult with the Plan Commission regarding the requirements for certified surveys before submission of the final map. Following consultation, two (2) copies of the final map in the form of a certified survey map shall be submitted to the City. The certified survey shall be reviewed, approved or disapproved by the Plan Commission and Common Council pursuant to the procedures used for Preliminary Plats in Sections 14.1.30 through 14.1.32, including notice and hearing requirements.
- (c) **Additional Information.** The Certified Survey Map shall show correctly on its face, in addition to the information required by Sec. 236.34, Wis. Stats., the following:
  - (1) **All Existing Buildings,** watercourses, drainage ditches and other features pertinent to proper division.
  - (2) **Setbacks or Building Lines** required by the Common Council and the City Zoning Code.
  - (3) **All Lands Reserved** for future acquisition.
  - (4) **Date of the Map.**
  - (5) **Graphic Scale.**
  - (6) **Name and Address** of the owner, subdivider and surveyor.
  - (7) **Square Footage** of each parcel.
  - (8) **Present Zoning** for the parcels.
  - (9) **Critical Building Locations.** Any building or structure and its location on the lot shall be dimensioned to the nearest one-tenth of one (0.1) foot where the location of such building or structure will be critical in relation to proposed property boundaries or to the zoning yard requirements.
  - (10) **Additional Information.** The City may require that the following additional information be provided when necessary for the proper review and consideration of the map:
    - a. Existing contours at vertical intervals of not more than two (2) feet where the slope of the ground surface is less than ten percent (10%), and of not more than five (5) feet where the slopes of the ground surface is ten percent (10%) or more. Elevations shall be marked on such contours based on National Geodetic Vertical Datum (NGVD) of 1929 (mean sea level). The requirement to provide topographic data may be waived if the parcel(s) created are fully developed.
    - b. Soil type, slope and boundaries are shown on the detailed operational soil survey maps prepared by the U.S. Soil Conservation Service.

- c. Location and depth of soil boring tests, as required by COMM 85, Wis. Adm. Code. The number of such tests shall be adequate to portray the character of the soil and the depths of bedrock and groundwater from the natural undisturbed surface. To accomplish this purpose, a minimum of one (1) test per three (3) acres shall be made initially. The results of such tests shall be submitted along with the certified survey map.
- d. The Plan Commission may require that the entire area contiguous to the land outlined in the proposed certified survey owned or controlled by the subdivider be included on the certified survey map even through only a portion of said area is proposed for immediate development.
- (d) **State Plane Coordinate System.** All distances and bearings shall be referenced to the Wisconsin Coordinate System. Where the map is located within a U.S. Public Land Survey quarter-section, the corners of which have been relocated, monumented and coordinated by the City of Hillsboro or Vernon County, the map shall be tied directly to one (1) of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinate of the monument marking the relocated section or quarter corner to which the map is tied shall be indicated on the map. All distances and bearing shall be referenced to the Wisconsin Coordinate System, Central Zone, and adjusted to the City's control survey.
- (e) **Certificates.** The surveyor shall certify on the face of the certified survey map that he has fully complied with all the provisions of this Chapter. The Common Council, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map.
- (f) **Street Dedication.** Dedication of streets and other public areas shall require, in addition, the owner's certificate and the mortgagee's certificate in substantially the same form as required by Sec. 236.21(2)(a), Wis. Stats.
- (g) **Recordation.** The subdivider shall record the map with the County Register of Deeds within thirty (30) days of its approval by the Common Council and any other approving agencies. Failure to do so shall necessitate a new review and reapproval of the map by the Common Council.
- (h) **Requirements.** To the extent reasonably practicable, the certified survey shall comply with the provisions of this Chapter relating to general requirements, design standards and required improvements. Conveyance by metes and bounds shall be prohibited where the lot(s) involved is less than one and one-half (1-1/2) acres or three hundred (300) feet in width.
- (i) **Critical Building Locations.** Any building or structure and its location on the lot shall be dimensioned to the nearest one-tenth of one (0.1) foot where the location of such building or structure will be critical in relation to proposed property boundaries or to the zoning yard requirements.

**Section 14.1.43** Reserved for Future Use.

**Section 14.1.44** Reserved for Future Use.

**Section 14.1.45** Reserved for Future Use.

**Section 14.1.46** Reserved for Future Use.

**Section 14.1.47** Reserved for Future Use.

**Section 14.1.48** Reserved for Future Use.

**Section 14.1.49** Reserved for Future Use.



# Title 14 - Chapter 1

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## Article F: Required Improvements

### Section 14.1.50 Improvements Required.

(a) **General Requirement.**

- (1) In accordance with the authority granted by Sec. 236.13, Wis. Stats., the City of Hillsboro hereby requires that, as a condition of Final Plat or certified survey approval, the subdivider agree to make and install all public improvements required by this Chapter and that the subdivider shall provide the City with security to ensure that the subdivider will make the required improvements. As a further condition of approval, the Common Council hereby requires that the subdivider be responsible for the cost of any necessary alterations of any existing utilities which, by virtue of the platting or certified survey map, fall within the public right-of-way.
- (2) As a condition for the acceptance of dedication of public rights-of-way, the City requires that the public ways have been previously provided with all necessary facilities constructed to City specifications, including, but not limited to, sewerage, storm drainage, water mains and services, grading and improvement of the streets and other public ways, sidewalks, street signing, street lighting and such other facilities required by the Common Council or that a specific portion of the costs be paid in advance as provided in Sec. 66.0709, Wis. Stats.

(b) **Financing of Improvements.**

- (1) The required public improvements shall be installed by the subdivider at his/her cost; or
- (2) The subdivider may petition the City for the installation of the required public improvements through the Special Assessment B Bond process as provided for in Sec. 66.0713(4), Wis. Stats., or another acceptable special assessment process with the special assessments being payable at the time of lot sale, payable in a maximum of seven (7) annual installments together with interest.

- a. The City may enter into a recapture agreement with the subdivider agreeing to require payment of recapture costs of public improvements from those properties benefitting from the improvements. The City shall prohibit development on those properties until payment has been made. The subdivider may contract directly with adjacent property owners and/or subdividers of adjacent land for reimbursement of the oversized and/or off-site improvements constructed.
  - b. In addition to the above, the City may enter into an agreement to reimburse the subdivider, at the end of the seven (7) year period, for his/her cost (at the time of construction) of those oversized improvements constructed within the proposed land division, but which are oversized to serve lands beyond the boundaries of the land division or other lands within the subdivider's control, and which have not, during the seven (7) year period, been reimbursed to the subdivider. Said payment shall be only for the actual additional cost of constructing the oversized improvements within the boundaries of the land division and shall not provide for payment of any interest. The City shall then establish special assessments against those benefitting properties outside the proposed land division boundaries or the subdivider's control for those costs. To be eligible to proceed under this provision, the land division must occur within development areas identified in the City's Comprehensive Plan or other adopted comprehensive development or public facilities plan.
- (3) Any workable combination of the above may be determined by the Common Council as acceptable.
  - (4) If the City finds that City construction of such public improvements would not be warranted as a special assessment to the intervening properties, or as a governmental expense until some future time, the developer shall be required, if he/she wishes to proceed with the development, to obtain necessary easements or right-of-way and construct and pay for such public improvement extensions.
- (c) **General Standards.** The required public improvements shall be installed in accordance with the engineering standards and specifications which have been adopted by the Common Council. Where standards and specifications have not been adopted, the improvements shall be made in accordance with established engineering practices, approved prior to the start of construction by the City Engineer. When new or revised standards and/or specifications have been adopted by the City, work on public improvements not begun within eighteen (18) months of the date of Final Plat adoption shall be made to the new or revised standards and/or specifications. The City Engineer shall review and approve the construction plans, specifications and calculations for the construction of the required public improvements.
  - (d) **Project Manager.** The subdivider shall designate a project manager who shall be readily available on the project site during the construction of the required public improvements. The project manager shall be granted authority on behalf of the subdivider to make decisions related to the construction of the required public improvements as they may arise during the course of the construction. The project manager shall also be responsible

for the scheduling and coordination of the required work to construct the required improvements. Correspondence with or verbal orders to the designated project manager shall have the same authority as with the subdivider directly.

### **Section 14.1.51 Required Agreement Providing for Proper Installation of Improvements; Surety.**

- (a) **Contract.** At the time of approving a final plat, the subdivider shall be required to enter into a contract with the City for land division improvements agreeing to install improvements assigned to the subdivider under this Chapter. The contract form shall be provided by the City and may provide for a phasing of public improvements construction, providing such phasing is approved by the Common Council. The City reserves the right to control the phasing through limits, sequence, and/or additional surety so as to provide for continuity of streets, sewers, water mains, and other necessary public improvements within and between the phases.
- (b) **Financial Guarantees.**
  - (1) The subdivider shall file with said contract, subject to the approval of the City Attorney, a bond, a certificate of deposit, irrevocable letter of credit or certified check in an amount equal to one hundred ten percent (110%) of the estimate of the cost of the subdivider's obligations under this Chapter prepared by the City Engineer as surety to guarantee that such improvements will be completed by the subdivider or his contractors not later than eighteen (18) months from the date of recording the plat or certified survey map. When a certificate of deposit or certified check is posted as security, the instrument must be negotiable by the City. When a letter of credit is posted as security, the City must be the beneficiary.
  - (2) However, the subdivider may elect, with the approval of the City, to install the improvements in construction phases provided that:
    - a. The phases are specified in the contract for land division improvements;
    - b. The developer submits surety in an amount equal to one hundred ten percent (110%) of the estimated costs of improvements next required by the installation and construction schedules. Improvements constructed during the first stage and each successive stage of construction shall not be accepted nor shall any building permit be issued for construction within the completed area of the subdivision or comprehensive development until the security required for the next stage of construction has been posted with the City.
    - c. The developer records deed restrictions approved by the City Attorney which specify that the lots which are included in future construction phases of the land division will not be transferred or sold unless the City's approval is obtained;
    - d. The subdivider minimizes grading and other disturbances to lands included in future construction phases in order to prevent erosion; and

- e. Erosion control plans and measures submitted and approved herein shall address the individual phases of construction.
- (3) The time limit for completion of a phased improvement program shall take into account the needs and desires of the City and adjacent property owners for street and other improvements to serve lands adjacent to and within the land division.
  - (4) As work progresses on installation of improvements constructed as part of the contract, the City Engineer, upon written request from the subdivider from time to time, is authorized to recommend a reduction in the amount of surety as hereinafter provided. When portions of construction (water, sanitary sewer, street, sidewalk, greenway or other improvements) are completed by the subdivider and determined acceptable by the City Engineer, the City Administrator is authorized, upon submission of lien waivers by the subdivider's contractors, to reduce the amount of surety. The amount of surety may be reduced at the time all underground utilities are installed and tested. The amount of surety remaining shall be equal to one hundred ten percent (110%) of the estimate of the City Engineer of costs of work remaining to be completed and accepted and to insure performance of the one (1) year guarantee as specified in Subsection (d) below against defects in workmanship and materials on work accepted. When the work on the major components of construction has been substantially completed, except for work which cannot be completed because of weather conditions or other reasons which, in the judgment of the City Engineer are valid for noncompletion, the City Administrator is authorized to accept a reduction in the amount of surety to an amount in the estimate of the City Engineer, sufficient to cover the work remaining to be completed, including performance of the one (1) year guarantee period against defects in workmanship and materials. As a further guarantee that all obligations under contract for work on the development are satisfied, the contractor and subcontractors who are to be engaged in the construction of utilities or street improvements on the street right-of-way to be dedicated shall be approved for such work by the City Engineer prior to commencing construction. The Common Council, at its option, may extend the bond period for additional periods not to exceed one (1) year each.
  - (5) Governmental units to which these bond and guarantee provisions apply may, in lieu of said contract or instrument of guarantee, file a resolution or letter from officers authorized to act in their behalf, agreeing to comply with the provisions of this Section.
  - (6) The subdivider shall agree in the development contract to pay all street and sidewalk assessments, specifically all area charges for sanitary sewer mains and all water main assessments, including where the land division abuts existing streets which are not improved within the City standard street improvements (including, but not limited to curb and gutter, local storm sewer, sidewalks and a bituminous pavement).

- (c) **Improvement Guarantee.** The subdivider shall include in said contract an instrument of public improvement guarantee by irrevocable letter of credit, certified check, cash escrow deposit, or performance bond whereby a bonding company [with assets exceeding Ten Million Dollars (\$10,000,000.00) and authorized to do business in the State of Wisconsin] guarantees maintenance, repair, replacement by the developer of said public improvements which deteriorate or fail to meet performance or operating standards during the bond term, or any penalties which may be incurred as a result thereof, equal to fifteen percent (15%) of the City Engineer's estimate of the cost of the public improvements. If within one (1) year after the date of final acceptance of any public improvement by the Common Council (or such longer period of time as may be prescribed by laws or regulations or by the terms of any special guarantee required by the terms of said contract as may be necessary due to the phasing of the construction of public improvements), any work on any public improvement is found to be defective, the subdivider shall remove it and replace it with nondefective work in accordance with written instructions given by the City Engineer. If the subdivider does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the City may cause the removal and replacement of said defective work and charge all direct, indirect and consequential costs of such removal and replacement to the performance bond or improvement guarantee instrument.
- (d) **Survey Monumentation.** Before final approval of any plat or certified survey within the corporate limits of the City, the subdivider shall install monuments placed in accordance with the requirements of Chapter 236, Wis. Stats. All survey monumentation located adjacent to street or public rights-of-way, but not located within street pavement, shall be protected with steel fence posts erected near the survey monumentation. The City Engineer may waive the placing of monuments for a reasonable time during public improvement construction on condition that the subdivider executes a surety to insure the placing of such monuments within the time required. On behalf of the City, the City Administrator is authorized to accept such surety bonds and contracts for monumentation in an amount approved by the City Engineer. Building permits shall not be issued until all survey monumentation for the block(s) of lots in which the lot(s) for which building permits are being applied for within the phase of the land division under development has been installed. When the land division includes an established one-half (1/2), one quarter (1/4), one quarter-one quarter (1/4-1/4), or other such section monument, the established monument shall be preserved and/or fully restored by the subdivider at his/her cost.

## **Section 14.1.52 Required Construction Plans; City Review; Inspections.**

- (a) **Engineering Reports, Construction Plans and Specifications.** As required by Section 14.1.31, engineering reports, plans and proposed specifications shall be submitted simultaneously with the filing of the Final Plat. At the Final Plat stage, construction plans

for the required improvements conforming in all respects with the standards of the City Engineer and the ordinances of the City shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain his/her seal. Such plans, together with the quantities of construction items, shall be submitted to the City Engineer for his/her approval and for his/her estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Simultaneously with the filing of the Final Plat with the City Clerk or as soon thereafter as practicable, copies of the construction plans and specifications shall be furnished for the following public improvements:

- (1) ***Street Plans and Profiles*** showing existing and proposed grades, elevations and cross sections of required improvements.
  - (2) ***Sanitary Sewer*** plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
  - (3) ***Storm Sewer and Open Channel*** plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
  - (4) ***Water Main*** plans and profiles showing the locations, sizes, elevations and materials of required facilities.
  - (5) ***Erosion and Sedimentation Control*** plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation. Such plans shall comply with the City's Erosion Control Chapter (Title 15, Chapter 2) if applicable.
  - (6) ***Planting Plans*** showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.
  - (7) ***Master Site Grading Plan***. Showing existing and proposed lot corner elevations, top of curb elevations, building location and proposed first floor building elevation, and shall show control and direction of drainage for each lot within the subdivision and for drainage adjacent to the plat.
  - (8) ***Additional*** special plans or information as required by City officials.
- (b) **Action by the City Engineer.** The City Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Chapter and other pertinent City ordinances and design standards recommended by the City Engineer and approved by the Common Council. If the City Engineer rejects the plans and specifications, he/she shall notify the owner, who shall modify the plans or specifications or both accordingly. When the plans and specifications are corrected, the City Engineer shall approve the plans and specifications for transmittal to the Common Council. The Common Council shall approve the plans and specifications before the improvements are installed and construction commenced.
- (c) **Construction and Inspection.**
- (1) Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the City Engineer upon receipt of all necessary permits and in accordance with the construction methods of this Chapter. Building permits shall not be issued until all improvements required

- by this Chapter are satisfactorily completed, and the developer has furnished lien waivers for all contractors.
- (2) During the course of construction, the City Engineer shall make such inspections as he/she or the Common Council deems necessary to insure compliance with the plans and specifications as approved. The City shall have full-time inspections during construction phases. The owner shall pay the actual cost incurred by the City for such inspections. This fee shall be the actual cost to the City of inspectors, engineers and other parties necessary to insure satisfactory work. The engineering costs will be per the engineering agreement.
- (d) **Subdivider to Reimburse the City for Costs Sustained.** The subdivider of land divisions within the City shall reimburse the City for its actual cost of design, inspection, testing, construction and associated legal and real estate fees for the required public improvements for the land division. The City's costs shall be determined as follows:
- (1) The cost of City employees' time engaged in any way with the required public improvements based on the hourly rate paid to the employee multiplied by a factor determined by the City Administrator to represent the City's cost for expenses, benefits, insurance, sick leave, holidays, vacation and similar benefits.
  - (2) The cost of City equipment employed.
  - (3) The cost of mileage reimbursed to City employees which is attributed to the land division.
  - (4) The actual costs of City materials incorporated into the work, including transportation costs plus a restocking and/or handling fee not to exceed ten percent (10%) of the cost of the materials.
  - (5) All consultant fees associated with the public improvements at the invoiced amount plus administrative costs. Unless the amount totals less than Fifty Dollars (\$50.00), the City shall bill the subdivider monthly for expenses incurred by the City. Statements outstanding for more than thirty (30) days shall accrue interest at the rate of one and one-half percent (1-1/2%) per month. Bills outstanding for more than ninety (90) days shall be forwarded to the subdivider's surety agency for payment. Amounts less than Fifty Dollars (\$50.00) shall be held for billing by the City until amounts total more than Fifty Dollars (\$50.00) or until the conclusion of project activities.
- (e) **Record Plans.** After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made one (1) Mylar and three (3) blue line plan sets showing the actual recorded location of all valves, manholes, stubs, sewers and water mains and such other facilities as the City Engineer shall require. These plans shall be prepared on the original mylars of the construction plans and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the record plans shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion.

## Section 14.1.53 Street Improvements.

Streets, roads and alleys as outlined on the approved plans based on the requirements of this Chapter, particularly Sections 14.1.70 and 14.1.71 shall be constructed as follows:

- (a) **General Considerations.** The streets shall be designed and located in relation to existing and planned streets, to topographical conditions and natural terrain features such as streams and existing tree growth, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
- (b) **Construction Standards.** Construction of all streets shall conform to the current standards as established by the City in this Chapter and elsewhere and shall be subject to approval of the City Engineer before acceptance.
- (c) **Conform to Official Map.** The arrangement, width, grade and location of all streets shall conform to the Official Map.
- (d) **Survey Monumentation.** Before final approval of any plat or certified survey within the corporate limits of the City, the subdivider, at his/her cost, shall install monuments placed in accordance with the requirements of Chapter 236, Wis. Stats. All survey monumentation located adjacent to street or public rights-of-way, but not located within street pavement, shall be protected with steel fence posts erected near the survey monumentation. The City Engineer may waive the placing of monuments for a reasonable time during public improvement construction on condition that the subdivider executes a survey to insure the placing of such monuments within the time required. On behalf of the City, the City Administrator is authorized to accept such surety bonds and contracts for monumentation in an amount approved by the City Engineer. Building permits shall not be issued until all survey monumentation for the block(s) of lots in which the lot(s) for which building permits are being applied for within the phase of the land division under development has been installed. When the land division includes and established one-half (1/2), one-quarter (1/4), one-quarter one-quarter (1/4-1/4), or such other section monument, the established monument shall be preserved and/or fully restored by the subdivider at his cost.
- (e) **Street Construction.** After the installation of all required utility and storm water drainage improvements, the subdivider shall prepare for surfacing all roadways, installing curb and gutter, in streets proposed to be dedicated, to the widths prescribed by these regulations, by placing crushed rock on said roadways and, in addition, shall surface said street, in a manner and quality consistent with this Chapter and plans and specifications approved by the City Engineer. Construction shall be to City standard specifications for street improvements.
- (f) **Street Cross Sections.** When permanent street cross sections have been approved by the City, the subdivider shall finish grade all shoulders and road ditches, install all necessary culverts at intersections and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the City Engineer.



### **Section 14.1.54 Curb and Gutter; Drainage Facilities.**

- (a) In all subdivisions, the Common Council may require the construction of concrete curb and gutters in accordance with plans and standard specifications approved by the Plan Commission, upon recommendation of the City Engineer. The City shall install all curb and gutters for roadway pavement on the established street and highway system. The cost of curb and gutter will be paid for by the developer in accord with City policy. These costs will be placed as a special assessment against the property.
- (b) Suitable concrete curb and gutter shall be constructed along the outside edge of all street pavements. Curb and gutter in residential areas shall have a six (6) inch barrier curb with a twenty-four (24) inch flag, except at driveway aprons where depressed curb shall be constructed. Depressed curb ramps shall be constructed at all handicap ramps for sidewalks and at all bikeways. Said curbs and gutters shall be constructed of concrete, 3500 PSI strength at seven (7) days, and contain three (3) continuous one-half (1/2) inch diameter deformed steel reinforcing rods ten (10) feet long, six (6) inches on center in the gutter flag at locations crossing underground utility excavations or where otherwise directed by the City Engineer. Expansion joints three quarter (3/4) inch thick shall be placed in the curb at each starting and ending of a radius, three (3) feet at each side of inlets, and at intervals not exceeding two hundred fifty (250) feet and where otherwise directed by the City Engineer. Tie bars shall be provided where curb and gutter is adjacent to rigid pavements.
- (c) Contraction joints shall be tooled, saw cut, or formed by insertion of a metal plate in the concrete at intervals not exceeding twelve (12) feet.

### **Section 14.1.55 Sidewalks and Bikeways.**

- (a) **Where Required.**
  - (1) In all new subdivisions and additional areas where required by the Common Council, the construction of all sidewalks shall be in accordance with plans and standard specifications approved by the City Engineer and in compliance with Section 6.2.2 of this Code of Ordinances.
  - (2) The cost of sidewalk will be paid for by the developer or property owner in accord with City policy. These costs will be placed as a special assessment against the property.
- (b) **Extra-Sized Sidewalks.** Wider-than-standard sidewalks may be required by the Common Council in the vicinity of schools, commercial areas and other places of public assemblage; and the Common Council may require the construction of sidewalks in locations other than required under the preceding provisions of this Section if such walks are necessary, for safe and adequate pedestrian circulation.

(c) **Location.**

- (1) The subdivider shall be required to provide sidewalks and bikeways where required by the City's sidewalk Master Plan, at City specifications as follows: Sidewalks and bikeways shall normally be located as far from the traffic lane as is possible, but not closer than six (6) inches to the right-of-way line. Where, as a result of such major obstructions as large and established trees, steep hills, drainageways, or major utility lines, the construction costs of the sidewalk or bikeway in its normal location would be prohibitive, sidewalks or bikeways may be located elsewhere within the street right-of-way, or within an easement, with the approval of the City Engineer. Sidewalks and bikeways constructed at street intersections or within five (5) feet of a legal crosswalk shall include provisions for curb ramping as required by Sec. 66.0911, Wis. Stats., and in accordance with City standards. In all cases where the grades or sidewalks or bikeways have not been specifically fixed by ordinance, the sidewalks and bikeways shall be laid to the established grade of the street [Ref. Sec. 66.0907(2), Wis. Stats.]. In areas where sidewalks and bikeways are to be laid to the established grade of the street, the street edge of the sidewalk or bikeway pavement shall be at an elevation above the top of the curb determined by a slope of a minimum of one-fourth (1/4) inch per foot up to a maximum of three-fourths (3/4) inch per foot times the distance between the curb and the street sidewalk or bikeway edge. The sidewalk or bikeway pavement shall be sloped at a minimum of one-fourth (1/4) inch per foot and a maximum of three-fourths (3/4) inch per foot toward the street, unless public drainage is available behind the sidewalk or bikeway.
- (2) Sidewalks in street right-of-ways shall be specifically intended to serve adjacent lots and the pedestrian traffic generated from and to those lots.

(d) **Bikeways.**

- (1) Bikeways shall be intended to serve both pedestrian and bicycle traffic in areas where the majority of the adjoining lots do not have frontage or access to the street or are not being served by the bikeway. In general, those lots which do not front or have access on the street in question are not the generating or terminating point for the pedestrian or bicycle traffic.
- (2) More specifically, bikeways shall be designed to transport the majority of pedestrian or bike traffic through the area as opposed to serving the adjoining lots as a sidewalk does.
- (3) Bikeways shall not be installed in lieu of sidewalks. However, where permitted by City ordinance, persons may ride a bicycle upon public sidewalks.

(e) **Location Determination.** The Common Council shall determine where sidewalks and/or bikeways are required in accordance with this Section.

(f) **Construction Standards.** Bikeways shall be constructed of bituminous pavement, at least eight (8) feet in width, in accordance with standard City specifications. Sidewalks shall be constructed according to the standards in Section 6.2.2.

*Cross-Reference:* Section 6.2.2.

## **Section 14.1.56 Sanitary Sewerage System.**

- (a) When the proposed subdivision or certified survey map is located within the adopted sanitary sewer service area of the City of Hillsboro, sanitary sewerage facilities shall be constructed in such a manner as to make adequate sanitary sewerage service available to each lot within the subdivision. In addition:
  - (1) The City shall install sewer laterals to the street lot line for residential lots.
  - (2) The size, type, and installation of all sanitary sewers and sanitary laterals proposed to be constructed shall be in accordance with plans and specifications approved by the Common Council, upon recommendation of the City Engineer. The latest revision of the "Standard Specifications for Sewer and Water Construction in Wisconsin" shall govern all work. All sanitary sewer and sanitary sewer lateral trenchers within proposed streets shall be back filled with granular material meeting the requirements of the "Standard Specifications". However, upon written approval of the City Engineer, the trenches may be back filled with excavated material, meeting the requirements of the "Standard Specifications". If excavated material is allowed for backfill, it shall be compacted by mechanical methods, meeting the approval of the Common Council, upon the recommendation of the City Engineer.
  - (3) The City shall install all sanitary sewers, sewer laterals, and sewer appurtenances within the proposed subdivision.
- (b) The cost of sanitary sewer mains will be shared by the property owners on either side of the street the main is laid according to the sewer utilities policies. The cost of sewer laterals will be paid entirely by the subdivider or land owner. These costs will be placed as a special assessment against the property.
- (c) Sanitary sewers, including all related items (manholes, lift stations, wyes, tees, stubs for future extensions, etc.), shall be installed meeting the specifications and requirements of the City.
- (d) Sanitary sewers shall be constructed in such a manner as to make adequate sanitary sewerage service available to each lot within the subdivision. Where public sanitary sewers of adequate capacity are determined by the City Engineer to be available, extensions of the public sanitary sewer system shall be made so as to provide sewer service to each lot. Gravity sanitary sewers shall be extended to the land division and to each buildable lot as approved by the City Engineer. Sewerage service lines of the sizes and materials required by the Plumbing Inspector shall be installed from the sanitary sewers to the property line of every lot in the subdivision. This installation will be coordinated with the installation of sanitary sewers. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and standard specifications approved by the City Engineer. Where sanitary sewers are located within the floodplain, sanitary manholes shall be floodproofed.

- (e) The ends of the services for each lot shall be accurately measured and recorded with the City Engineer and marked in the field with appropriate staking.

### **Section 14.1.57 Water Supply Facilities.**

- (a) When the proposed subdivision or certified survey map is located within the adopted water service area of the City of Hillsboro, or when it is proposed to establish a private water supply and distribution system to serve two (2) or more lots, the water supply and distribution facilities shall be installed in such a manner as to make adequate water service available to each lot within the subdivision. The subdivider shall make provision for adequate private water systems, where permitted, as required by the City in accordance with the standards of the Wisconsin Department of Natural Resources. In addition:
  - (1) The City shall install water laterals to the street lot line.
  - (2) The size, type and installation of all public water mains proposed to be constructed shall be in accordance with plans and standards specifications approved by the Common Council, upon the recommendation of the City Engineer.
  - (3) The City shall install all water mains, water laterals, and water system appurtenances within the proposed subdivision.
  - (4) The cost of water mains will be shared by the property owners on either side of the street the main is laid according to the water utility policies. The cost of water laterals will be paid entirely by the subdivider or land owner. These costs will be placed as a special assessment against the property.
- (b) Water mains shall be constructed in such a manner as to make adequate water service available to each lot within the land division. Extensions of the public water supply system shall be designed so as to provide public water service to each lot and required fire flow protection to each hydrant. The size, type and installation of all public water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the City Engineer.

### **Section 14.1.58 Storm Water Drainage Facilities.**

- (a) Pursuant to Section 14.1.74, storm water drainage facilities shall be installed which include curb and gutter, manholes, catch basins and inlets, storm sewers, storm sewer laterals from the main to the lot line, road ditches and open channels, as may be required. All such facilities are to be of adequate size and grade to hydraulically accommodate maximum potential volumes of flow, the type of facility required, the design criteria and the sizes and grades to be determined by the City Engineer.
- (b) The City shall install all storm sewers within the proposed subdivision. The entire cost of installation of storm sewers shall be paid for by the City.

- (c) Only where sump pumps are required, storm sewer laterals of the sizes and materials required by the City Administrator or City Engineer shall be installed from the mains to the lot line of every lot in the subdivision when storm sewer mains shall be required by this Section. Storm drainage facilities shall be so designed as to present no hazard to life or property, minimize shoreland erosion and siltation of surface waters, shall prevent excess run-off on adjacent property and shall provide positive drainage away from on-site sewage disposal facilities. The size, type and installation of all storm water drain and sewers proposed to be constructed shall be in accordance with this Chapter and plans and standard specifications approved by the City Engineer. Storm drainage facilities shall be so designed as to minimize hazards to life or property, and the size, type and installation of all storm water drains and sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the City Engineer. Storm sewers oversized to handle runoff from offsite properties will be installed by the subdivider; however, the cost of oversizing above a twenty-four (24) inch diameter storm sewer shall be paid by other users connecting to the system.

### **Section 14.1.59 Other Utilities.**

- (a) In so far as possible, all utilities, including but not limited to natural gas, telephone, cable TV, electric, and water shall be installed underground with an affidavit by the subdivider that the maintenance of said public improvements will be guaranteed by the subdivider due to use of the improvements by purchasers and construction traffic.
- (b) Prior to any maintenance, repair or replacement being performed by the developer during the bond period, it shall notify the City Engineer at least three (3) work days prior to the doing of the work and obtain approval of the City Engineer as to the nature and manner of work to be done.
- (c) The subdivider shall cause gas, electric power, cable television and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision, certified survey or land division. All new electrical distribution television cables and telephone lines from which lots are individually served shall be underground unless the Common Council, upon the recommendation of pertinent City utilities or Plan Commission, specifically allows overhead poles because topography, soil, water table, solid rock, boulders, or other physical conditions would make underground installation unreasonable or impractical.
- (d) Plans indicating the proposed location of all gas, electrical power, cable television and telephone distribution and transmission lines required to service the plat shall be approved by the City Administrator.

### **Section 14.1.60 Street Lamps; Street Trees.**

- (a) **Street Lighting.** The City shall install street lamps along all streets proposed to be dedicated of a design compatible with the neighborhood and type of development proposed. Such lamps shall be placed at each street intersection and at such interior block spacing as may be required by the City Administrator or City Engineer. All the costs associated with the installation and maintenance of street lamps will be paid for by the City.
- (b) **Street Trees.** Street trees shall be planted throughout all residential land divisions. Such trees shall be planted in the parkways equidistant between the sidewalks and curb, or in street tree easements, and no closer than five (5) feet from any sanitary sewer service, water service, or driveway apron. The City shall let contracts for planting of street trees. At street corners, trees shall be located at least twenty-five (25) feet from the intersection of right-of-way lines. A fee of Twenty-five Dollars (\$25.00) per residential lot shall be collected for a street tree at the time a building permit is issued for the initial construction of the residence. The fee shall be placed into a City Forestry Fund to be used for the planting of new street trees in the neighborhood in which the residence is located.

### **Section 14.1.61 Street Signs.**

- (a) The City shall pay the costs of providing the street signing necessary to serve the development. Such signing shall include street name signs and such temporary barricades and "road closed" signs as may be required by the City Administrator until the street improvements have been accepted by Common Council resolution.
- (b) The City Administrator shall have the authority to impose any restrictions to traffic on street improvements not yet accepted by the City as he/she may deem necessary to protect the improvements from damage and to protect the safety of the public. Such restrictions shall include, but not be limited by enumeration to, weight restrictions, street closings, access restrictions, or the posting of temporary traffic control measures. All the costs associated with the installation and maintenance of street signs will be paid for by the City.

### **Section 14.1.62 Erosion Control.**

- (a) The subdivider shall cause all gradings, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded or otherwise protected so that erosion, siltation, sedimentation and washing are prevented. The subdivider shall submit an erosion control plan that specifies measures that will be taken to assure the minimization of erosion problems.
- (b) The subdivider shall plant those grasses, trees, and vines, a species and size specified by the Common Council, necessary to prevent soil erosion and sedimentation. In addition:

- (1) The Common Council may require the subdivider to provide or install certain protection and rehabilitation measures, such as fencing, sloping, seeding, riprap, revetments, jetties, clearing, dredging, snagging, drop structures, brush mats, willow poles and grade stabilization structures.
- (2) Tree cutting and shrubbery clearing shall not exceed fifty percent (50%) of the lot or tract and shall be so conducted as to prevent erosion and sedimentation, preserve and improve scenic qualities, and during foliation, substantially screen any development from stream or lake users.
- (3) Paths and trails in wooded and wetland areas shall not exceed ten (10) feet in width unless otherwise approved by the Common Council, and shall be so designed and constructed as to result in the least removal and disruption of trees and shrubs, and the minimum impairment of natural beauty.
- (4) Earth moving, such as grading, topsoil removal, mineral extraction, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channel clearing, ditching, drain tile laying, dredging, and lagooning, shall be so conducted as to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen and topography.
- (5) Review of the conduct of such cutting, clearing and moving may be required of the Vernon County Zoning Department, the State District Fish and Game Managers, and the State District Forester by the City Engineer, Common Council, or Plan Commission as they deem appropriate.

*Cross-Reference:* Title 15, Chapter 2.

### **Section 14.1.63      Partition Fences.**

When the land included in a subdivision plat or certified map abuts upon or is adjacent to land used for farming or grazing purposes, the subdivider shall erect partition fences, satisfying the requirements of the Wisconsin Statutes for a legal and sufficient fence, between such land and the adjacent land. A covenant binding the developer, its grantees, heirs, successors, and assigns to erect and maintain such fences, without cost to the adjoining property owners, so long as the land is used for farming or grazing purposes, shall be included upon the face of the Final Plat or certified survey map.

### **Section 14.1.64      Easements.**

- (a) **Utility Easements.** The Common Council, on the recommendation of appropriate departments, utilities and agencies serving the City, shall require utility easements for poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other

utility lines. It is the intent of this Chapter to protect all established easements so as to assure proper grade, assure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prevent the planting of trees in the easement area.

- (b) **Drainage Easements.** Drainage easements shall comply with the requirements of Section 14.1.74(f).
- (c) **Easement Locations.**
  - (1) Utility easements shall be at least twelve (12) feet wide, or wider where recommended by the City Engineer, and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Common Council and/or Plan Commission that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.
  - (2) All easements dedicated on final plat or certified survey maps for survey maps for poles, cables or conduits for electricity, telephone or other private utility lines shall be noted thereon as "Utility Easement". All easements for storm and sanitary sewers, water and force mains, pedestrian walks and other public purposes shall be noted thereon as "Public Easement for" followed by reference to the use or uses for which they are intended.
- (d) **Deed Restrictions for Easements.** Deed restrictions shall accompany each final plat or certified survey map, and shall be filed in the Register of Deeds office. In addition to whatever else may be contained therein, such restrictions shall describe the location and width of utility and public easements which are being established; a description by reference to the final plat or certified survey map shall suffice. Such restrictions shall further recite that the utility companies and the public agencies using such easements are granted the right to place, and shall state that the elevation of such easements as graded by the subdivider may not be altered thereafter by him/her, or any subsequent landowner by more than six (6) inches.

## **Section 14.1.65      Extra-Sized and Off-Site Facilities.**

When any public improvements of adequate capacity are not available at the boundary of a proposed land division, the City, or its duly authorized representative, shall require, as a prerequisite to approval of a Final Plat or certified survey map, assurances that such improvement extensions shall be provided as follows in accordance with the following standards:

- (a) **Design Capacity.** All improvements within or entering or leaving the proposed development shall be installed to satisfy the service requirements for the entire service or drainage area in which the development is located and the improvements shall be of sufficient capacity to handle the expected development of the overall service area involved.



- (b) **Extra-sized and Off -size Improvements.** Where improvements of adequate size needed to serve the development are not available at the boundary of the development, the subdivider shall proceed under one (1) of the alternatives as identified in Section 14.1.50(a).
- (c) **Lift Stations.** Where sanitary or storm sewer lift stations and force mains are required to lift sewage to the gravity system, the subdivider shall have plans, profiles, specifications and estimated operation and maintenance costs prepared for the installation of such facilities to the City Engineer's requirements. Equipment similar to existing City equipment shall be utilized whenever possible. The installation, inspection, supervision and engineering fees for lift stations and/or force mains shall be paid for by the subdivider unless otherwise determined and agreed upon by the Common Council. Gravity sanitary sewer service shall be employed whenever determined by the City Engineer to be feasibly accessible.

## **Section 14.1.66 Acceptance of Improvements and Dedications.**

- (a) **Acceptance of Improvements.** The dedication of any improvements, utilities, streets, parks, easements, rights-of-way or other lands or rights to the City or the public shall not be considered accepted by the City for public ownership until such time as the required public improvements within the intended dedication or necessary because of the intended dedication have been completed and accepted by the Common Council by adoption of a resolution accepting such dedication. The subdivider shall be responsible for and liable for the maintenance, safety and operation of all required public improvements until such time as the improvements are accepted by the Common Council by resolution. In the event the City must take measures to maintain, operate or make safe a public improvement existing or required as a result of the land division but which has not yet been accepted by the City, the costs of such measures shall hereby be determined to be City-incurred costs to be reimbursed to the City by the subdivider in accordance with the provisions of this Chapter.
- (b) **Inspection and Certification of Improvements.**
  - (1) After any of the following increments of the required improvements have been installed and completed, the subdivider shall notify the City Engineer, in writing, that the work is complete and ready for final inspection, shall file reproducible record drawings of the completed improvements and shall file lien waivers or affidavits, in a form acceptable to the City Administrator and approved by the City Attorney, evidencing that there are no claims, actions or demands for damages, based upon contract or tort arising out of or in any way related to the project and that no moneys are owned to any surveyor, mechanic, contractor, subcontractor, materialman or laborer after all required improvements have been installed. Acceptance of the improvements may be requested in the following increments:

- a. Sewer mains and services (either storm or sanitary).
  - b. Water mains and services.
  - c. Streets comprised of all grading, gravel, curb and gutter, culverts and paving.
  - d. Other miscellaneous appurtenances to the above increments such as sidewalks, bikeways, street lighting, street signing, etc.
- (2) The City Clerk shall certify that there are no unpaid taxes or unpaid special assessments on any of the lands included in the area of acceptance and shall prepare a final billing for engineer, inspection and legal fees and submit it to the subdivider for payment. The City Engineer shall conduct any necessary final inspections of the improvements and forward a report to the City Administrator recommending either approval or disapproval. When the engineering, inspection, taxes, special assessments and legal fees have been paid and when the necessary lien waivers and affidavits have been filed, the report of the City Engineer, together with the recommendation of the City Administrator, shall be forwarded to the Common Council for approval and acceptance of the improvements and dedications.

### **Section 14.1.67      Site Grading.**

The subdivider shall be required to grade the full land division in accordance with the requirements of Section 14.1.76. The entire cost of grading will be paid for by the City. All street project that will require grading must be requested for one (1) year in advance of the actual work to be done so the funds can be budgeted for.

### **Section 14.1.68      Reserved for Future Use.**

### **Section 14.1.69      Reserved for Future Use.**

# Title 14 - Chapter 1

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## Article G: Design Standards

### Section 14.1.70 General Street Design Standards.

- (a) **Compliance with Statutes.** In laying out a subdivision, the owner shall conform to the provisions of Chapter 236, Wis. Stats., and all applicable City of Hillsboro regulations. In all cases where the requirements of this Chapter are different from the requirements of Chapter 236, the more restrictive provision shall apply.
- (b) **Dedication.** The subdivider shall dedicate land and improve streets as provided in this Chapter and Section 14.1.53. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses and public convenience and safety. Streets shall conform to official maps adopted by the Common Council. The subdivision, certified survey parcel or land division shall be so designed as to provide each lot with satisfactory access to a public street or road.
- (c) **Compliance with Comprehensive Plan and Ordinances.**
  - (1) The arrangement, character, features, and layout of land divisions in the City of Hillsboro shall be designed to comply with the standards of this Chapter, the Comprehensive Plan, the Official Map, and/or any comprehensive utility plans or other planning documents which may pertain to the standards of design for land divisions and which have been adopted by the Common Council. Where no such planning documents have been adopted, subdivisions shall be designed according to engineering and planning standards approved by the City Engineer and applied so as to properly relate the proposed development with adjacent development, the topography, natural features, public safety and convenience, and the most advantageous development of undeveloped adjacent lands. The absence of a street being shown on the official map, streets shall be provided in locations determined necessary by the City Engineer and to the right-of-way widths required in this Article for the classification of street required.
  - (2) The arrangement, character, extent, width, grade, and location of all streets shall conform to City master plans, the Official Map, and to this Chapter, and other City planning documents and shall be considered in their relation to: existing and planned streets, reasonable circulation of traffic, topographical conditions, run-off of storm water, public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

- (3) The arrangement of streets in new subdivisions shall make provision for the appropriate continuation at the same or greater width of the existing streets in adjoining areas.
- (d) **Areas Not Covered by Official Map or Plan.** In areas not covered by an Official Map or a City Comprehensive Plan, the layout of streets shall conform to the plan for the most advantageous development of adjoining areas of the neighborhood. Streets shall be designed and located in relation to existing and officially planned streets, topography and natural terrain, streams and lakes and existing tree growth, public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets.
- (e) **Proposed Streets.** Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions or unless, in the opinion of the Common Council, such extension is not necessary or desirable for the coordination of the layout of the subdivision or land division or for the advantageous development of the adjacent tracts.
- (f) **Streets Classifications.** Streets shall be required and classified by the City Engineer in accordance with the City's Comprehensive Plan and where not identified in said plan, in accordance with sound engineering standards, into the classifications indicated below:
  - (1) **Arterial Streets.** Arterial streets shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation, and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
  - (2) **Collector Streets.** Collector streets shall be arranged so as to provide ready collection of traffic from individual areas and conveyance of this traffic to the major street and highway system and shall be properly related to special traffic generators such as schools, churches and shopping centers and other concentrations of population and to the major streets into which they connect.
  - (3) **Local/Minor Streets.** Local streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide safe and convenient access to abutting property.
  - (4) **Alleys.** Alleys shall be located at rear property lines, shall discourage through traffic, shall serve less than fifty (50) vehicles/day, shall be intended to provide access to offstreet loading and service areas and not primary access to parcels.
- (g) **Reserve Strips.** Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such strips is placed with the City under conditions approved by the Common Council.
- (h) **Alleys.**
  - (1) **Commercial and Industrial.** Alleys may be provided in commercial and industrial districts. The width of the right-of-way for residential alleys shall be not less than

- twenty-four (24) feet and the width of the right-of-way for commercial and industrial alleys shall be not less than thirty-two (32) feet. Alleys shall be constructed according to base and surfacing requirements for streets.
- (2) **Residential.** Alleys shall not be approved in residential areas unless necessary because of topography or other exceptional circumstances.
  - (3) **Dead End.** Dead-end alleys are prohibited except under very unusual circumstances, and crooked and "T" alleys shall be discouraged.
  - (4) **Temporary dead-end streets** shall not be over six hundred (600) feet in total length, shall provide for an eventual intersection spacing meeting the requirements of this Chapter and shall provide for temporary cul-de-sacs or turnarounds as approved by the City Engineer. Temporary termination of streets intended to be extended at a later date shall be accomplished with a temporary cul-de-sac in accordance with the standards set forth above, or by construction of a temporary "T" intersection thirty-three (33) feet in width and thirty-three (33) feet in length abutting the right-of-way lines of the access street on each side.
- (i) **Permanent Dead-End Streets; Cul-De-Sac Streets.** Permanent dead-end streets or cul-de-sacs shall not be longer than six hundred (600) feet in length. All urban cul-de-sac streets designed to have one end permanently closed shall terminate in a tear-drop turn-around having a minimum right-of-way radius of sixty (60) feet and a minimum outside curb radius of forty-eight (48) feet.
  - (j) **Continuation.** Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit. The use of cul-de-sacs shall be held to a minimum and permanently dead ended streets shall be prohibited. Provisions shall be made so that all proposed streets shall have a direct connection with, or be continuous and in line with, existing, planned or platted streets with which they are to connect. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Common Council, upon the recommendation of the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing layout or the most advantageous future development of adjacent tracts.
  - (k) **Minor Streets.** Minor streets shall be so laid out so as to discourage their use by through traffic.
  - (l) **Frontage Roads.** Where a land division abuts or contains an existing or proposed arterial highway, or railroad right-of-way, the subdivider shall provide a frontage road, platted access restriction along the property contiguous to such highway, or such other treatment as may be determined necessary by the City Engineer to ensure safe, efficient traffic flow and adequate protection of residential properties.
  - (m) **Private Streets.** Private streets shall not be approved nor shall public improvements be approved for any private street; all streets shall be dedicated for public use.
  - (n) **Visibility.** Streets shall afford maximum visibility and safety for motorist, bicycle, and pedestrian use and shall intersect at right angles, where practicable. A minimum sight distance with clear visibility, measured along the centerline, shall be provided of at least

five hundred (500) feet on major thoroughfares, two hundred (200) feet on collector-distributor streets, and one hundred fifty (150) feet on all other streets.

- (o) **Tangents.** A tangent at least one hundred (100) feet long shall be required between reverse curves on arterial and collector streets.
- (p) **Half Streets.** Half streets shall not be platted unless necessary to provide the full width of an existing street platted to half width. All newly platted streets shall be platted to the required full width. Where a half street exists adjacent to a proposed land division, the subdivider shall endeavor to acquire and dedicate the remaining half street.
- (q) **Intersections.**
  - (1) **Angle of Intersect.** Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit. The curved street shall intersect another street with not less than forty (40) feet of tangent right-of-way between the end of curvature and the right-of-way of the street being intersected.
  - (2) **Number of Streets Converging.** The number of streets converging at one (1) intersection shall be reduced to a minimum, preferably not more than two (2). Intersections of local streets shall be at least one hundred twenty-five (125) feet from each other.
  - (3) **Number of Intersections - Arterial Streets.** The number of intersections along arterial streets shall be held to a minimum. Wherever practicable, the distance between such intersections shall be not less than one thousand two hundred (1,200) feet, unless otherwise determined by the City Engineer to provide better safety.
  - (4) **Local Street Spacing.** Local streets and frontage roads intersecting with other local streets shall be spaced no closer than three hundred (300) feet between centerline and spaced no closer than eight hundred (800) feet between centerline on collector streets, unless otherwise approved by the Plan Commission.
  - (5) **Property Lines at Street Intersections.** Property lines at street intersections shall be rounded with a minimum radius of fifteen (15) feet, except that with all intersections with arterial and collector streets the radius shall be increased to twentyfive (25) feet or of a greater radius when required by the City Engineer.
  - (6) **Local Streets.** Local streets shall not necessarily continue across arterial or collector streets, but if the centerline of such local streets approach the major streets from opposite sides within one hundred fifty (150) feet of each other, measured along the centerline of the arterial or collector streets, then the location shall be so adjusted that the adjoinment across the major or collector street is continuous and a jog is avoided.
  - (7) **Additional Sight Easements.** At any intersection determined by the City Engineer, restricted development easements or additional street right-of-way shall be platted to provide for adequate sight distances in every direction of travel. At a minimum, the subdivider shall grade, clear or otherwise provide for an unobstructed sight triangle at all intersections incorporating the area within a triangle formed by the intersection of the street right-of-way lines and a point on each right-of-way line being not less than twenty-five (25) feet from the intersection point.

- (r) **Street Names.**
- (1) Duplication of existing street names by similar word, spelling, or sound shall not be permitted.
  - (2) Where a street maintains the same general direction except for curvilinear changes for short distances, the same name shall continue for the entire length of the street: House numbering difficulties shall be considered the determining factor in considering whether a change of name is necessary due to curvilinear changes.
  - (3) A street name shall be changed when required to conform to the proposed or existing house numbering base.
  - (4) A name which is assigned to a street which is not presently a through street, due to intervening land over which the street extension is planned, shall be continued for the separate portions of the planned through street.
  - (5) The following designations shall be used only in the situations indicated:
    - a. "Boulevard." A street with a divided pavement, either existing or planned. If the divided pavement ends but the street continues, the same street name and suffix shall continue.
    - b. "Lane." To be limited to a street, one (1) block long, not ending in a cul-de-sac.
    - c. "Circle." To be limited to a cul-de-sac of nine (9) lots or more.
    - d. "Court." To be limited to a cul-de-sac of eight (8) lots or less.
    - e. "Parkway." To be limited to a street abutting a park or greenway or creek.
  - (6) The maximum number of street names at one (1) intersection shall be three (3).
  - (7) Street names shall be assigned to avoid intersections which have the same exact street names.
  - (8) The name of any projection of a street shall remain unchanged even if the projection terminates in a cul-de-sac.
  - (9) The changing of a street name that does not duplicate an existing street name shall only be approved where such change will eliminate conflicts with other provisions of this Subsection.
  - (10) Service roads and highways served by them shall have the same street name and designation.
  - (11) Approval of street names on a preliminary plat will not reserve the names nor shall the City be required to accept such names at the time of final platting.
  - (12) A minimum number of letters is desirable in a street name. The maximum number of letters, not including the prefix or suffix, shall not exceed twelve (12).
- (s) **Limited Access Highway and Railroad Right-of-way Treatment.** Whenever the proposed subdivision contains or is adjacent to a limited access highway, arterial street or railroad right-of-way, the design shall provide the following treatment:
- (1) **Subdivision Lots.** When lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited access highway or a railroad, a planting strip at least twenty (20) feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be part of the platted lots but shall have the following restriction lettered on the face of the plat: "This

strip reserved for the planting of trees and shrubs, the building of structures hereon prohibited."

- (2) **Commercial and Industrial Districts.** Commercial and industrial districts shall have provided, on each side of the limited access highway, arterial street or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than one hundred fifty (150) feet.
- (3) **Streets Parallel to a Limited Access Highway.** Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street and highway or collector street which crosses said railroad or highway, shall be located at a minimum distance of two hundred fifty (250) feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.
- (4) **Minor Streets.** Minor streets immediately adjacent and parallel to railroad right-of-ways shall be avoided, and location of minor streets immediately adjacent to arterial streets and highways and to railroad right-of-ways shall be avoided in residential areas.
- (t) **Stream or Lake Shores.** Stream or lake shores shall have a minimum of sixty (60) feet of public access platted to the low water mark at intervals of not more than one-half (1/2) mile as required by Sec. 236.16(3), Wis. Stats.
- (u) **Street and Pedestrian Way Design Standards.** The minimum right-of-way and roadway width of all proposed streets shall be as specified by the comprehensive plan, comprehensive plan component, official map, neighborhood development study, or jurisdictional highway system plan, or if no width is specified therein, the minimum widths shall be as shown as follows. Street sections are for standard arterial streets only. Cross-sections for freeways, expressways and parkways should be based upon detailed engineering studies.

(1) **Street Cross Sections - Urban Streets.**

<b>Type of Street or Public Way</b>	<b>Minimum Right-of-Way to be Dedicated</b>	<b>Minimum Dimensions</b>
Arterial Streets (four-lane)	120 feet	*Dual 36-foot pavement (face of curb to face of curb) *24-foot median *7-foot tree banks (curb lawn) *4-foot sidewalks *1-foot outside sidewalks



Arterial Streets (two-lane)	80 feet	*48-foot pavement (face of curb to face of curb) *11-foot tree banks (curb lawn) *4-foot sidewalks *1-foot outside sidewalks
Collector Streets	80 feet	*48-foot pavement (face of curb to face of curb) *11-foot tree banks (curb lawn) *4-foot sidewalks *1-foot outside sidewalks
Minor Streets	66 feet	*36-foot pavement (face of curb to face of curb) *7-foot tree banks (curb lawn) *4-foot sidewalks *1-foot outside sidewalks
Minimum Cul-de-Sac	60 foot radius	*48-foot radius pavement *7-foot tree banks (curb lawn) *4-foot sidewalks *1-foot outside sidewalks
Cul-de-Sac Barrel	60 feet	*32-foot pavement (face to curb to face of curb) *9-foot tree banks (curb lawn) *4-foot sidewalks *1-foot outside sidewalks

(2) **Street Cross Sections - Rural Streets.**

Type of Street or Public Way	Minimum Right-of-Way to be Dedicated	Minimum Dimensions
Arterial Streets (four-lane)	130 feet	*Dual 24-foot pavement *18-foot median *10-foot outside shoulders *6-foot inside shoulder *16-foot roadside ditches
Arterial Streets (two-lane)	100 feet	*24-foot pavement *10-foot shoulders *28-foot roadside ditches
Collector Streets	None	None
Minor Streets	66 feet	*22-foot pavement *6-foot shoulders *16-foot roadside ditches
Minimum Cul-de-Sac	66 foot radius	*45-foot radius pavement *5-foot shoulders *16-foot roadside ditches
Cul-de-Sac Barrel	66 feet	*22-foot pavement *6-foot shoulders *16-foot roadside ditches

(3) **Street Grades.**

- a. Arterial streets: Six percent (6%).
- b. Collector streets: Eight percent (8%).
- c. Minor streets, alleys, frontage streets: Twelve percent (12%).
- d. Pedestrian ways: Twelve percent (12%) unless steps or stairs of acceptable design are provided.
- e. The grade of any street shall in no case exceed twelve percent (12%) or be less than one-half of one percent (0.5%).

(4) **Radii of Curvature.** When a continuous street centerline deflects at any one point by more than ten degrees (10°), a circular curve shall be introduced having a radius of curvature on said centerline of not less than the following:

- a. Arterial street and highways: Five hundred (500) feet.
- b. Collector streets: Three hundred (300) feet.
- c. Minor Streets: One hundred fifty (150) feet.

Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and general

leveling of the topography. All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to fifteen (15) times the algebraic difference in the rates of grade for arterial streets, and one-half (1/2) this minimum for all other streets.

## **Section 14.1.71 Specifications for Preparation, Construction and Dedication of Streets and Roads.**

(a) **General Requirements.**

- (1) **Construction Standards.** All roadway construction and materials used shall be performed in accordance with the construction methods as listed in the appropriate sections of the "State of Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction" and its supplements, and this Chapter, whichever is more restrictive. The design requirements of this Section and Section 14.1.70 shall be applicable to all streets and roads that are to be dedicated to the City, regardless of whether such streets or roads are part of a new subdivision or land division. Design requirements for the pavement shall be adequate for the zoning classification of the area served by the subject street. A street which divides areas with different zoning classifications shall be constructed in accordance with the requirements of the area requiring the higher quality pavement. Any variation of this must have prior approval of the City Engineer. Combination concrete curb and gutter is required on all streets. (Refer to the Section describing requirements for curbs and gutters.) A copy of all design assumptions and computations on which the proposed design is based shall be submitted to the City Engineer.
- (2) **Preliminary Consultation.** Prior to the design, preparation and construction of any roadway to be dedicated to the City of Hillsboro, the applicant shall notify the City Engineer. An on-site meeting will then be arranged to be attended by the City Engineer and the applicant. Plans must be provided in order for the City Engineer to check the design and the drainage.
- (3) **Material Slips.** Copies of material slips for all materials furnished for the road construction projects shall be delivered to the City before the City approves the final construction.
- (4) **Required Inspections.** Prior to the commencement of any street construction, the subdivider shall notify the City Engineer, at least three (3) workdays in advance, as to the nature of the work being done. The City Engineer shall be contacted for required inspections during the following phases of construction:
  - a. Subbase grading;
  - b. Crushed aggregate base course;
  - c. Concrete gutter, curb and sidewalks;
  - d. Bituminous surface course; and
  - e. Shouldering.

Any deficiencies found by the City Engineer shall be corrected before proceeding to the next phase of construction.

- (5) **Tests of Materials.** The City shall be provided with a sample of the roadway base material prior to placement on the roadway. The City shall also be provided with copies of test reports performed by an independent testing lab indicating test results for material gradation and soundness.
  - (6) **Pavement Samples.** Samples of bituminous concrete will be taken by the City during pavement construction operations for purposes of determining that the material meets specifications.
- (b) **Construction Standards.** All streets and highways constructed in the City or to be dedicated to the City shall fully comply with the following construction standards, and shall be adequate for the zoning classification or projected use of the area served by the street:
- (1) **General.** After completion of the underground utilities and approval thereof, the streets shall be constructed. Unless excepted, building permits shall not be issued prior to the installation of the street improvements and the approval of an individual lot grading plan that conforms to the guidelines of the master site grading plan, as determined by the City Engineer, or his/her designee.
  - (2) **Temporary Streets.** Construction of temporary streets shall require authorization of the Common Council.
  - (3) **Standard Street Improvements.**
    - a. Standard street improvements shall include street lights, crushed stone base course, concrete curb and gutter, bituminous binder and surface course and, when required, walkways.
    - b. The construction of standard street improvements can begin only when the construction of underground utilities has been completed and mechanical compaction test reports have been approved by the City Engineer.
    - c. Standard street improvements shall be installed to the boundary line of the subdivision unless the street culminates in a cul-de-sac, the topography or other physical conditions make it impossible to do so, or unless this requirement is waived, in writing, by the City Engineer.
  - (4) **Roadway Base Standards.**
    - a. After the installation of temporary block corners monuments by the subdivider and establishment of street grades by the City Engineer, the City shall grade the full width of the right-of-way of all streets proposed to be dedicated in accordance with plans and standard specifications approved by the City Plan Commission, upon the recommendation of the City Engineer. The roadbeds in the street rights-of-way shall be graded to subgrade.
    - b. Cut and filled lands shall be graded to a maximum slope of one (1) on four (4) or the soils angle of repose, whichever is the lesser and covered with permanent vegetation.
    - c. Residential streets shall have a minimum nine (9) inch thick, compacted in-place, crushed stone roadway base. Roadway base shall consist of four (4)

- inch minimum depth of compacted, crushed stone conforming to requirements of Gradation No. 2 of Section 304 - Crushed Aggregate Base Course of "State of Wisconsin, Standard Specifications For Road and Bridge Construction," latest edition, in top layer over five (5) inch minimum depth of compacted, crushed stone in bottom layer.
- d. On commercial, arterial or other heavy-use streets, as determined by the City Engineer, a ten (10) inch minimum depth base course shall be constructed upon an inspected and approved subgrade, with crushed rock approximately six (6) inches in depth conforming to the specifications in Subsection (b)(4)b above and overlaid with one (1) four (4) inch layer of crushed stone conforming to Gradation No. 2 as specified in Subsection (b)(4)b above.
  - e. In the case of commercial, arterial or other heavy-use roads, the Common Council may, in the alternative to the above standards, have the City Engineer provide specifications for such roads after researching the site(s) and conducting a soil analysis for separate pavement design analysis.
  - f. In any case, the Common Council shall have the sole discretion in determining the use and construction classification to be adhered to.
  - g. In all cases, the base course shall be compacted to the extent necessary to produce a condition so that there will be no appreciable displacement of material laterally and longitudinally under traffic and shall conform to line, grades and shape shown on the approved plans, profiles and cross sections. Compaction shall be to ninety-five percent (95%) modified Proctor ASTM D1557. Testing shall be conducted by nuclear density meter or as otherwise approved by the City Engineer.
  - h. The subdivider shall furnish drawings which indicate the proposed grades of streets shown on the plat and, after approval of those grades by the City Engineer and adoption by the Common Council, the streets shall be graded to full width of the right-of-way of the proposed street to the subgrade elevations shown on the typical cross-section. The grading is to be completed prior to installation of utilities. All stumps and trees which cannot be saved, boulders and other similar items shall be removed by the subdivider.
- (5) **Roadway Subgrade Quality.** All subgrade material shall have a minimum California Bearing Ratio (CBR) of three (3). Subgrade material having a CBR less than three (3) shall be removed and replaced with a suitable fill material, or the pavement must be designed to compensate for the soil conditions. The soil support CBR values selected for use by the designer should represent a minimum value for the soil to be used.
- (6) **Roadway Sub-Base.** Stable and nonorganic sub-base material is required. Unstable and organic material must be subcut, removed and replaced with a suitable granular or breaker-run material approved by the City Engineer.
- (7) **Street Width; Pavement Thickness; Surfacing.**
- a. After the installation of all utility and storm water drainage improvements, the City shall surface all roadways in streets proposed to be dedicated to the

- widths prescribed by these regulations and the comprehensive plan or the comprehensive plan components of the City.
- b. All roadways shall be surfaced with a three and one-half (3-1/2) inch hot mix bituminous concrete pavement, made up of a two (2) inch binder course and a one and one-half (1-1/2) inch surface course, placed on an eight (8) inch thick gravel base. The bituminous pavement shall be constructed in stages.
  - c. The binder course being placed initially upon completion of the utilities, and the surface course being placed at such time that seventy-five percent (75%) of the lots within the subdivision have been developed, but not sooner than one (1) year after the date the binder course was placed. All failures in the binder course shall be repaired and no bituminous surface shall be laid later than October 1 of any given year. Said surfacing shall be done in accordance with plans and standards specifications approved by the City Plan Commission, upon the recommendations of the City Engineer.
  - d. The entire cost of surfacing will be paid for by the City.
- (8) **Roadway Culverts and Bridges.** Roadway culverts and bridges shall be constructed as directed by the City Engineer and sized utilizing the methods listed in Chapter 13, entitled "Drainage," of the "Facilities Development Manual" of the Wisconsin Department of Transportation. All roadway culverts shall be provided with concrete or metal apron endwalls. All culverts shall be designed to pass a ten (10) year, twenty-four (24) hour duration storm event.
- (9) **Driveways.**
- a. Curbs shall not be interrupted by openings for driveways or other accessways to private property unless the number and location of such interruptions have been approved by the City Engineer.
  - b. When allowed, curb openings for driveways within the public service area shall be no less than fourteen (14) feet nor more than twenty-four (24) feet in width unless the opening is intended to afford access to a commercially zoned parcel. The width of any driveway opening intended to afford access to commercial property shall not be more than thirty-five (35) feet, unless otherwise prescribed by the City Engineer.
  - c. Driveways outside of the public service area shall be no less than twelve (12) feet in width, shall have a culvert at the ditch line, and shall, in all other respects, comply with the requirements of any ordinance regulating driveways adopted by the pertinent adjacent town.
  - d. The culverts shall be placed in the ditch line at elevations that will assure proper drainage, and they shall be provided with concrete or metal endwalls.
- (10) **Topsoil, Grass, Seed, Fertilizer and Mulch.** All disturbed areas (ditches, backslopes) within the road right-of-way not provided with pavement and shouldering material shall be restored utilizing four (4) inches of topsoil and good quality grass seed, fertilizer and mulch. Ditches along the roadway with greater than a two percent (2%) slope shall be protected by erosion control materials such as hay bales, sod, erosion control mats, etc.

- (11) ***Drainage Improvements.*** All new roads and streets shall be provided with storm water retention areas and storm sewers in order to provide for proper drainage.
- (12) ***Continuity and Transitions.***
  - a. All street pavement widths on streets continued from previously developed or platted streets shall, wherever practical, provide for the greater of either the existing or required pavement type, width, grade and cross slope.
  - b. Where it is necessary to provide for a transition of pavement width and/or type between new and existing streets, the transition shall occur in a safe manner at an intersection. In width transitions, the ratio of the transition length to width shall not be less than forty to one (40:1) unless the City Engineer determines that special circumstances prevent use of such ratio, in which case the minimum transition ratio shall be twenty to one (20:1).
- (13) ***Curb and Gutter.*** Combination concrete curb and gutter is required on all streets: Refer to Section 14.1.54 describing requirements for curbs and gutters.
- (14) ***Post Construction Traffic Limited.*** No vehicular traffic shall be permitted on the pavement for a minimum period of between twenty-four (24) and seventy-two (72) hours following paving, as determined necessary by the City Engineer to protect the new pavement.
- (15) ***Rural Street Sections.***
  - a. When permanent rural street sections have been approved by the Common Council, the City shall finish grade all shoulders and road ditches, install all necessary culverts at intersections and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the City Plan Commission, as recommended by the City Engineer and as set forth in this Chapter.
  - b. The cost of rural street sections will be paid for by the City. Any work to be done must be requested the year before the work is to be completed for budgetary purposes.

## **Section 14.1.72      Block Design Standards.**

### **(a) Length; Arrangement.**

- (1) The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated, but block length (measured in the long dimension from street centerline to street centerline) shall not be less than six hundred (600) feet nor exceed one thousand five hundred (1,500) feet nor have less than sufficient width to provide for two (2) tiers of lots of appropriate depth between street lines, unless otherwise dictated by exceptional topography or other limiting factors of good design.
- (2) Blocks shall be so designated as to provide two (2) tiers of lots, unless it adjoins a railroad, major thoroughfare, river or park where it may have a single tier of lots.

Cul-de-sacs may be used where the interblock spacing of adjacent streets exceeds the appropriate depth of two (2) tiers of lots.

- (b) **Pedestrian Pathways.** Pedestrian pathway easements not less than ten (10) feet wide may be required by the Common Council, upon the recommendation of the Plan Commission, through the center of a block more than nine hundred (900) feet long, where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.
- (c) **Street Tree Planting Strip Easements.** Tree planting strip easements shall be provided for on both sides of all streets when the street terrace is insufficient. The minimum easement width shall be ten (10) feet and shall be adjacent to the front property line. Street trees shall be maintained by the adjacent property owner in accordance with City ordinances.

### **Section 14.1.73 Lot Design Standards.**

(a) **Size.**

- (1) **Generally.** The size, shape and orientation of lots shall be appropriate for the location of topography of the land division, and for the type of development contemplated, provided that no lot shall be smaller in area than the minimum lot size for the appropriate zone as established by the City Zoning Code.
- (2) **Zoning Requirement Compliance.** Lot dimensions, shape and size shall provide for conformance to the requirements of the Zoning Code for the permitted land use(s) without the need for the granting of Zoning Code variances by the Zoning Board of Appeals. Area and dimensions of all lots shall conform to the requirements of the City of Hillsboro Zoning Code for the subdivisions within the City and to the Vernon County Zoning Ordinance within the City's extraterritorial jurisdictional limits. Those building sites in the extraterritorial plat approval jurisdiction not served by a public sanitary sewerage system or other approved system shall be sufficient to permit the use of an on-site soil absorption sewage disposal system designed in accordance with Ch. COMM 83, Wis. Adm. Code. The width and area of lots located on soils suitable for the use of an on-site soil absorption sewage disposal system shall not be less than one hundred fifty (150) feet in width and forty thousand (40,000) square feet in area.
- (3) **Depth.** Depth of lots shall be a minimum of one hundred twenty (120) feet. Excessive depth in relation to width shall be avoided and a proportion of two to one (2:1) shall be considered a desirable ratio under normal conditions. Depth of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated.
- (4) **Lot Width.** Width of lots shall conform to the requirements of the City's Zoning Code, or other applicable ordinance, and in no case shall a lot be less than sixty (60) feet in width at the building setback line.



- (b) **Commercial or Industrial Lots.** Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as required by the City Zoning Code.
- (c) **Minimum Lot Frontage.** All lots on curved streets and cul-de-sacs shall have a minimum of forty (40) feet of platted frontage on a public street to allow access by emergency and service motor vehicles unless part of a Planned Unit Development approved by the Common Council. In any case, minimum lot width at building setback line shall be in conformance with the requirements of the Zoning Code. Alley frontage (public or private) shall not constitute meeting this minimum frontage requirement.
- (d) **Corner Lots.** Corner lots for residential use shall have an extra width of twenty (20) feet to permit full building setback from both streets, or as required by applicable zoning regulations.
- (e) **Access to Public Streets.** Every lot shall front or abut on a public street for a distance of at least forty (40) feet.
- (f) **Side Lots.** Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines. Lot lines shall follow City boundary lines rather than cross them.
- (g) **Double and Reversed Frontage Lots.** Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
- (h) **Natural Features.** In the dividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- (i) **Land Remnants.** All remnants of lots below minimum size left over after dividing of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels.
- (j) **Large Lots.** In case a tract is divided and results in parcels of more than twice the minimum lot size provided for by the City Zoning Code for the zoning district in which the land is located, such parcels shall be so arranged to permit redividing into parcels in accordance with this Chapter and with the Zoning Code.
- (k) **Trunk Highway Proximity.** All lots adjacent to state trunk and federal highways shall be platted with additional depth necessary to provide for a building setback line not less than fifty (50) feet from the nearer right-of-way line or one hundred ten (110) feet from the centerline, whichever is more restrictive (Ref. Wis. Adm. Code Trans 233). The subdivider may appeal this requirement to the City Engineer. Upon written request of the City Engineer; the Wisconsin Department of Transportation is hereby authorized to then determine building setback requirements equal to or less than those required above in all land divisions (including certified surveys) adjacent to state and federal highways in accordance with the authority granted in the Administrative Code. The required building setback line and additional lot depth shall be platted so as to accommodate such required building setbacks.

- (l) **Easement Allowance.** Lots containing pedestrian or drainage easements shall be platted to include additional width in allowance for the easement.
- (m) **Drainage Way and Watercourses.**
  - (1) ***Lots Abutting Watercourse.*** Lots abutting upon water course, drainage way, channel or stream shall have such additional depth or width as required by the City Engineer to obtain building sites that are not subject to flooding from a post development one hundred (100) year twenty-four (24) hour duration storm event.
  - (2) ***Meander Lines.*** Lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be included as part of lots, outlots or public dedications in any plat abutting a lake or stream.
- (n) **Greater Building and Setback Lines.** Building setback lines appropriate to the location and type of development contemplated, which are more restrictive than the regulation of the zoning district in which the plat is located, may be required by the Plan Commission and shall be shown on the final plat or certified survey map. Examples of the application of this provision would include requiring greater setbacks on cul-de-sac lots to achieve the necessary lot width at the setback line, requiring greater setbacks to conform to setbacks of existing adjacent development, or setting special yard requirements to protect natural resource elements.

## **Section 14.1.74 Drainage and Stormwater Management System.**

- (a) **Purpose.**
  - (1) The following provisions in this Section are established to preserve and provide properly located public sites and facilities for drainage and stormwater management as the community develops, and to insure that the costs of providing and developing such public sites are equitably apportioned on the basis of serving the need for the management of increased stormwater quantities resulting from land development.
  - (2) The City shall install all storm sewers within the proposed subdivision. The entire cost of installation of storm sewers shall be paid for by the City.
- (b) **Drainage System Required.**
  - (1) As required by Section 14.1.58, a drainage system shall be designed and constructed to provide for the proper drainage of the surface water of the land division and the drainage area of which it is a part. A Final Plat shall not be approved until the subdivider shall submit plans, profiles and specifications as specified in this Section, which have been prepared by a registered professional engineer and approved or modified by the Common Council, upon the recommendations of the Plan Commission and City Engineer. Drainage systems shall be designed to accommodate a one hundred (100) year storm event.

- (2) Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.
  - (3) The Plan Commission shall not recommend for approval any subdivision plat which does not provide adequate means for stormwater or floodwater runoff. Any stormwater drainage system will be separate and independent of any sanitary sewer system. Storm sewers, where necessary, shall be designed in accordance with all governmental regulations, and a copy of design computations for engineering capacities shall accompany plans submitted by the planning engineer for the final plat. When calculations indicate that curb capacities are exceeded at a point, or that storm water will extend more than ten (10) feet beyond the face of the curb, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point.
- (c) **Drainage System Plans.**
- (1) The subdivider shall submit to the City at the time of filing a Preliminary Plat a preliminary drainage plan or engineering report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the additional runoff which would be generated by the development of the land within the subdivision. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. The report shall also include:
    - a. Estimates of the quantity of storm water entering the subdivision naturally from areas outside the subdivision.
    - b. Quantities of flow at each inlet or culvert.
    - c. Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.
  - (2) A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area within the subdivision.
  - (3) The design criteria for storm drainage systems shall be based upon information provided by the City Engineer.
  - (4) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, sod, etc.) shall be in compliance with specifications provided by the City Engineer.
- (d) **Drainage System Requirements.** Storm drainage facilities as indicated on the plans required in Subsection (a) of this Section necessary to serve, and resulting from, the phase of the land division under development shall be installed as follows:
- (1) **Street Drainage.** All streets shall be provided with an adequate storm drainage system. The street storm system shall serve as the minor drainage system and shall be designed to carry street, adjacent land and building storm water drainage. Storm

water shall not be permitted to be run into the sanitary sewer system within the proposed subdivision or to run across street intersections.

- (2) **Off-Street Drainage.** The design of the off-street major drainage system shall include the entire watershed affecting the land division and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the subdivider shall make provisions for dedicating an easement pursuant to Subsection (e) of the City to provide for the future maintenance of said system.
- (e) **Protection of Drainage Systems.** The subdivider shall adequately protect all ditches to the satisfaction of the City Engineer. Ditches and open channels shall be seeded, sodded or paved depending upon grades and soil types. (Generally ditches or channels with grades up to one percent [1%] shall be seeded; those with grades up to four percent [4%] shall be sodded and those with grades over four percent [4%] shall be paved or lined with rip-rap).
- (f) **Drainage Easements.** Where a land division is traversed by a watercourse, drainageway, channel or stream:
  - (1) There shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or
  - (2) The watercourse or drainageway may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a storm water easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this Section; or
  - (3) Wherever possible, drainage shall be maintained in an easement by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such easements shall be of a minimum width established at the high water mark plus ten (10) feet.
- (g) **Dedication of Drainageways.** Whenever a parcel is to be subdivided or consolidated and embraces any part of a drainageway identified on a City Comprehensive Storm Water Management Plan, master plan and/or official map or any portion thereof, such part of said existing or proposed public drainageway shall be platted and dedicated by the subdivider as an easement or right-of-way in the location and at the size indicated along with all other streets and public ways in the land division. Whenever any parcel is to be subdivided or consolidated and is part of a drainage district established under the authority of Chapter 88, Wis. Stats., the subdivider shall petition the Circuit Court to transfer the jurisdiction of that portion of the drainage district being subdivided or consolidated to the City in accordance with Chapter 88.83, Wis. Stats.
- (h) **Dedication/Preservation of Storm Water Management Facilities.** The subdivider shall dedicate sufficient land area for the storage of storm water to meet the needs to be created by the proposed land development and in accordance with the standards for on-site detention and as determined by the City Engineer. Whenever a proposed storm water

management facility (e.g., detention or retention basin) shown on the Comprehensive Storm Water Management Plan (if applicable), master plan and/or official map is located, in whole or in part, within the proposed land division, ground areas for providing the required storage capacity in such proposed public facility shall be dedicated to the public to the requirements of the master plan and/or official map.

(i) **Storm Drainage Facilities.**

- (1) The subdivider, at his/her cost, shall install all drainage facilities identified in the Erosion Control Plan or determined by the City Engineer other than storm sewers as being necessary for the management of all lands and roadways within the development. In addition, drainage capacity through the development from other areas shall be provided in accordance with a Comprehensive Surface Water Management Study, if applicable. All required storm drainage facilities shall be constructed and operational prior to acceptance of any dedications and/or public improvements served by the storm drainage facilities.
- (2) The subdivider shall submit to the City Engineer for his/her review and approval a report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the land division to handle the additional runoff which would be generated by the development of the land within the land division. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed land division. The report shall also include:
  - a. Estimates of the quantity of storm water entering the land division naturally from areas outside the land division.
  - b. Quantities of flow at each inlet or culvert.
  - c. Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.
- (3) A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area within the land division.
- (4) The design criteria for storm drainage systems shall be reviewed by the City Engineer and approved or modified.
- (5) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, code, etc.) shall be in compliance with standards and specifications provided by City ordinance and/or the City Engineer.

- (j) **Minor Drainage System.** The subdivider shall install all minor drainage system components necessary to reduce inconvenience and damages from frequent storms. Minor drainage components shall include all inlets, piping, gutters, channels, ditching, pumping and other facilities designed to accommodate the post-development runoff resulting from a ten (10) year frequency rainfall event as determined using the Rational Method. Temporary accumulations of storm runoff from ponding or flowing water, in or near minor system components, shall be permitted providing such accumulations do not encroach on any traffic lane of any collector or arterial street, nor on the center sixteen (16) feet of any local street, except on cul-de-sac or permanently dead-end streets serving

less than ten (10) dwelling units, where such accumulations may not overtop the curb. In drainageways and drainageway easements, accumulations of water shall not inundate beyond the limits of the drainageway or drainageway easement. Cross-street drainage channels (valley gutters) shall not be permitted.

- (k) **Major Drainage System.** Other than storm sewers installed by the City, the subdivider shall install all major drainage system components necessary to reduce inconvenience and damages from infrequent storms. Major system components shall include large channels and drainageways, streets, easements and other paths and shall be capable of accommodating post-development runoff in excess of that accommodated by minor system components resulting from twenty-four (24) hour rainfall events for storms with return frequencies greater than two (2) years up to and including the one hundred (100) year, twenty-four (24) hour event as identified in the most current edition of Soils Conservation Service Technical Release 55 (TR 55) or Technical Release 20 (TR 20). On local and collector streets and drainageways and drainage easements, accumulations of water shall not inundate any buildings at the ground line, unless such buildings are flood-proofed. On arterial streets and in commercial zoning districts, accumulations of water shall not inundate any buildings at the ground line, unless such buildings are flood-proofed and the depth of water at the street crown shall not exceed six (6) inches to permit operation of emergency vehicles.
- (l) **Drainage Piping Systems.**
  - (1) Unless otherwise approved by the City Engineer, all drainage piping of twelve (12) inches diameter and greater shall be constructed of reinforced concrete pipe class adequate for proposed street loading. Open drainage inlet pipes or culverts with any opening dimension in excess of eighteen (18) inches shall be equipped with debris grates having an exposed area at least seven (7) times the pipe opening area to avoid backwater accumulations from trash buildup and unsafe stream velocities and a maximum opening size of six (6) inches. Drainage piping outfalls with any opening dimension in excess of thirty-six (36) inches shall be protected from unauthorized entry by fencing, partial or total submergence of the outlet, debris grates or other methods approved by the City Engineer unless in such a location as to render routine maintenance operations impossible. Outfalls and their channels shall be protected from damages due to scour and erosion to the satisfaction of the City Engineer.
  - (2) Agricultural drain tiles which are disturbed during construction shall be restored, reconnected or connected to public storm drainage facilities.
- (m) **Open Channel Systems.**
  - (1) Where open channels are utilized in either the minor or major drainage system, they shall be designed so as to minimize maintenance requirements and maximize safety. Drainage easements (in lieu of dedications) shall be utilized to accommodate open channels provided adequate access by the City for maintenance of drainage capacity. Side slopes shall not exceed a four-to-one (4:1) slope. Drainageways with grades of 0.75% or less, or where subject to high ground water, continuous flows, or other conditions as determined by the City Engineer that

would hamper maintenance operations due to consistently wet conditions, shall have a paved concrete invert of not less than eight (8) feet wide and side slopes to a point one (1) foot above the channel invert.

- (2) In areas where invert paving is not required, the drainageway bottom shall be grass. If the drainageway has a bare soil bottom or the natural grasses in the drainageway are disturbed due to development operations, the drainageway bottom shall be sodded and securely staked to one (1) foot above the elevation of inundation resulting from a predevelopment ten (10) year, twenty-four (24) hour storm event. Other disturbed areas shall be seeded and prepared in accordance with the City's Erosion Control requirements. Velocities for grass-lined channels shall not exceed those presented in the City's Surface Water Management Study, if one is adopted.
- (n) **Standards for On-Site Detention Storage.** The subdivider shall employ on-site detention to control erosion and sedimentation, reduce the post-development peak runoff rate or temporarily store storm water runoff due to inadequate downstream drainage facilities. The detention (storage) facilities shall be subject to regulation in accordance with the following standards:
- (1) Where on-site detention is temporarily employed for erosion and sedimentation control, the detention facilities shall safely contain the predevelopment runoff from a twenty-five (25) year storm event of twenty-four (24) hour duration within the limits of the facility.
  - (2) Where on-site detention is permanently employed to reduce the post-development peak runoff, the detention facility shall safely contain the post-development runoff from a twenty-five (25) year storm event of twenty-four (24) hour duration within the limits of the facility.
  - (3) Detention facility peak discharge rates for the maximum storm required to be contained shall not exceed the predevelopment peak discharge rate from a one hundred (100) year storm event of twenty-four (24) hour duration or the capacity of the downstream drainage facilities, whichever is less.
  - (4) All temporary detention facilities shall safely contain or pass the runoff from any storm of any duration which exceeds the maximum storm required to be contained up to the one hundred (100) year storm event of twenty-four (24) hour duration.
  - (5) All permanent detention facilities shall safely contain or pass the runoff from any storm of any duration which exceeds the maximum storm required to be contained up to the one hundred (100) year storm event of twenty-four (24) hour duration on both public and, if necessary, private properties without inundating any building at the ground elevation, the travel lanes of any arterial street, the center ten (10) feet of any collector street or the top of the curb on any local street.
  - (6) Determination of on-site detention volumes shall be computed by procedures established by the United States Soil Conservation Service in the most current edition of its technical publication entitled "Urban Hydrology for Small Watersheds, TR-55," and as accepted and approved by the City Engineer.
  - (7) The storage of storm water runoff shall not encroach on any public park (except parks designed with detention facilities) or any private lands outside the land

division unless an easement providing for such storage has been approved and recorded for said lands.

- (8) All detention facilities shall be designed with the safety of the general public and any considerations for ease of maintenance as top proprieties.
- (9) Any wet detention facilities shall include riprap to not less than two (2) feet above the normal pool elevation for protection from wave action.
- (10) The sides of all detention facilities shall have a maximum slope ratio of four to one (4:1) (horizontal to vertical), with flatter slopes being required where determined practical by the City Engineer.
- (11) The Common Council, upon recommendation by the City Engineer, may require the installation of fencing or other such security measures in detention facilities with excessively long down times or permanent water features, or other features requiring additional security for safety reasons.

## **Section 14.1.75 Non-Residential Subdivisions.**

### **(a) General.**

- (1) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provisions as the City may require.
- (2) A non-residential subdivision shall also be subject to all the requirements of site plan approval set forth in the City Building Code. A non-residential subdivision shall be subject to all the requirements of this Chapter, as well as such additional standards required by the City and shall conform to the proposed land use standards established by any City Comprehensive Plan or Official Map and the City Zoning Code.

### **(b) Standards.** In addition to the principles and standards in this Chapter, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Common Council that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

- (1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
- (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
- (3) Special requirements may be imposed by the Common Council, upon the recommendation of the City Engineer, with respect to street, curb, gutter and sidewalk design and construction.
- (4) Special requirements may be imposed by the Common Council, upon the recommendation of the City Engineer, with respect to the installation of public utilities, including water, sewer and storm water drainage.



- (5) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strips when necessary.
- (6) Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

## **Section 14.1.76 Grading.**

The subdivider shall grade each land division in order to establish street, block and lot grades in proper relation to each other and to topography as follows:

- (a) **Master Site-Grading Plan.**
  - (1) The entire cost of grading will be paid for by the City. All street project that will require grading must be requested for one (1) year in advance of the actual work to be done so the funds can be budgeted for.
  - (2) A master site-grading plan shall be prepared by the subdivider for all new subdivisions. This plan shall be prepared in accordance with the requirements and standards of the City.
  - (3) The master site-grading plan shall show existing and proposed elevations of all lot corners, control points and building locations. The plan shall also indicate all overland storm drainage in and adjacent to the subdivision. The cost of the preparation of such a plan shall be paid for by the subdivider.
  - (4) After approval or modification of these plans by the City Engineer, the full width of the right-of-way of the proposed streets within the subdivision and the entire subdivision lot area shall be graded in accordance with the master site-grade plan. The owners of the subdivision lots shall adhere to those plans.
  - (5) Upon completion of all street and subdivision grading, the grades shall be checked and inspected by the Building Inspector to determine that the completed grading work is in accordance with the master site-grading plan. All grades shall be within fourtenths (.4) of a foot of the elevations shown on the master site grading plan.
- (b) **Right-of-Way Grading.** The subdivider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans, including the grading of site triangles at each intersection.
- (c) **Block Grading.** Block grading shall be completed by one (1) or more of the following methods prior to the installation of utilities:
  - (1) Regrading along the side or rear lot lines which provides for drainage to the public drainage facilities.
  - (2) Parts of all lots may be graded to provide for drainage to a ditch or to a swale, provided any ditches or swales are in public drainage easements.

- (3) Draining across rear or side lot lines may be permitted provided that the course of drainage is within a public drainage easement and is toward public drainage facilities.
- (d) **Miscellaneous Grading Requirements.**
  - (1) Lot grading shall be completed so that water drains away from each building site toward public drainage facilities at a minimum grade of one percent (1%) and provisions shall be made to prevent drainage onto properties adjacent to the land division unless to a public drainage facility.
  - (2) Grading activities shall not result in slopes greater than three to one (3:1) on public lands or lands subject to public access.
  - (3) The topsoil stripped for grading shall not be removed from the site unless identified in the Erosion Control Plan approved by the City Engineer as not being necessary for erosion control or site landscaping purposes. Topsoil shall be uniformly returned to the lots when rough grading is finished. Topsoil piles shall be leveled and seeded for erosion control prior to the City releasing the one (1) year guarantee provision on public improvements in the streets adjacent to the lots on which the topsoil is stockpiled.
  - (4) Such grading shall not result in detriment to any existing developed lands, either within or outside of the corporate limits.

**Section 14.1.77**      Reserved for Future Use.

**Section 14.1.78**      Reserved for Future Use.

**Section 14.1.79**      Reserved for Future Use.

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## Article H: Park and Public Land Dedications

### Section 14.1.80 General Park and Public Land Dedication Requirements.

- (a) **Dedication Requirement.** In order that adequate open spaces and sites for public uses may be properly located and reserved and in order that the cost of providing public areas, such as but not limited to, parks, recreation areas may be equitably apportioned on the basis of additional need created by the subdivision development, each subdivider shall be required to dedicate land or fees in lieu of land for park or other public uses.
- (b) **General Design.** In the design of a subdivision, land division, planned unit development or development project, provision shall be made for suitable sites of adequate area for parks, playgrounds, open spaces, drainage-ways and other public purposes. If designated on the comprehensive plan, comprehensive plan component, or official map, such areas shall be made a part of the preliminary and final plats as stipulated in this Chapter. If not so designated, consideration shall be given in the location of such sites to the preservation of scenic and historic sites, standards of fine trees, marshes, lakes, ponds, watercourses, watersheds and ravines.

### Section 14.1.81 Land Dedication.

- (a) **Recreational Dedication Standards.** The City of Hillsboro shall require that land be dedicated for parks and playgrounds, recreational areas, or open space locations where such would be appropriate. The City Administrator shall determine the number of acres to be reserved based upon the following calculations. These requirements are only applicable to single-family residential subdivisions of more than ten (10) units or multifamily single lot subdivisions. Parkland required in residential subdivisions are:

<b>Dwelling Units Per Gross Acre</b>	<b>Percent Acreage for Parkland/Open Space</b>
1 - 7	7%
8 - 14	12%
15 and up	17%

- (b) **Condition of Land to Be Dedicated.** Land for recreation or open space purposes shall be of a character and location suitable for use as a playground, playfield, or for other active or passive recreation purposes, and shall be level and dry; and shall be improved by the developer to the standards required by the City Administrator, which improvements shall be included in the performance bond. An active recreation site shall be accessible from at least one (1) street. Fifty percent (50%) of the land to be dedicated shall not exceed a minimum grade of three percent (3%). The remainder of the land proposed for dedication shall not exceed five percent (5%). Land to be dedicated shall be adequately drained. Subsurface investigation may be required by the City Administrator to determine whether or not the drainage capability of the soil is adequate. The Common Council may reject the land offered if it is determined to be unsuitable for recreational development. In this case, the developer must offer another parcel on a cash payment in lieu of dedication. The City Administrator may recommend to the Common Council that the subdivision/developer submit a cash payment in lieu of dedication where it is deemed that the drainage capability or other conditions at a site are not adequate for recreation purposes. All land to be reserved for dedication to the City for park purposes shall have prior approval of the City and shall be shown marked on the approved subdivision plan as lands "to be dedicated for park, recreation or open space purposes".
- (c) **Active Recreation Facility Plan.** The City Administrator shall recommend active recreation facilities to be required, related parking areas, and proposed landscaping. A report shall accompany this active recreation facilities plan outlining the proper procedure to be followed in bearing debris and waste, parking construction vehicles, and otherwise maintaining the condition of the site before dedication to the City.
- (d) **Timing of Dedication.** The Mayor shall be empowered to require the land reserved for dedication to be deeded to the City of Hillsboro under the terms of an approved subdivision plan based upon the recommendation of the City Administrator as to when sufficient recreation needs exist in the subdivision. The Mayor must notify the subdivision/developer in writing that a transfer of land is requested at least ninety (90) days prior to the desired date of transfer. At the time of transfer, the land must be adequately drained, graded, and sown in accordance with the City standards and specifications.
- (e) **Alternative Procedure; Money in Lieu of Land.** Where, with respect to a particular subdivision, the reservation of land required pursuant to this Section does not equal the percentage of total land required to be reserved in accordance with this appendix or the land is determined to be not suitable for dedication by the City Administrator, the Common Council may require, prior to final approval of the construction improvements plan of the subdivision, that the applicant deposit with the City a cash payment in lieu of

land dedication. Such deposit shall be used by the City for improvement of a neighborhood park, playground, or recreation area, including the acquisition of property. Such deposit must be used for facilities that will be actually available to and benefit the persons in said subdivision and be located in the park nearest the subdivision. The Common Council shall determine the amount to be deposited, based upon the recommendation of the City Administrator. This recommendation will reflect the fair market value of the amount of land that would have been dedicated.

- (f) **Other Recreation Dedications.** The provisions of this Section are minimum standards. None of the Subsections above shall be construed to prohibit a developer from dedicating other lands for recreation or open space purposes in addition to the requirements of this Section.

## **Section 14.1.82      Development of Park Area.**

- (a) When parklands are dedicated to the City, the subdivider is required to:
- (1) Properly grade and contour for proper drainage;
  - (2) Provide surface contour suitable for anticipated use of area as approved by the City Engineer; and
  - (3) Cover areas to be seeded with a minimum of six (6) inches of quality topsoil, seed as specified by the City Administrator, fertilized with 16-6-6 at a rate of seven (7) pounds per one thousand (1,000) square feet, and mulched, as specified in the standard *Specifications for Road and Bridge Construction Section 627 and 629*. The topsoil furnished for the park site shall consist of the natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life, and such topsoil shall be neither excessively acid nor excessively alkaline. Fine grading and seeding must occur within one (1) year following issuance of the first building permit within that land division unless otherwise authorized by the Common Council. The improved area shall not be deemed officially accepted until a uniform grass cover to a two (2) inch height has been established. It shall be the responsibility of the subdivider to maintain the area until the City accepts the dedication.
- (b) It shall be the responsibility of the City to maintain the dedicated areas upon their dedication and acceptance by the City. The owner of said land shall be responsible for its maintenance and liability thereon except that said owner shall not develop the surrounding area in a manner which would unduly depreciate the purpose, use or value of the dedicated property.
- (c) A neighborhood park area shall be provided by the subdivider with a standard residential water service unless located directly adjacent to a fire hydrant. A community park area shall be provided by the developer with a minimum six (6) inch water service or at least one (1) fire hydrant, and at least one (1) four (4) inch sanitary sewer lateral, all located at the street property line.

- (d) The Common Council may require certification of compliance by City officials. The cost of such report shall be paid by the subdivider.
- (e) If the subdivider fails to satisfy the requirements of this Section, the Common Council may contract said completion and bill such costs to the subdivider, following a public hearing and written notice to the subdivider of noncompliance. Failure to pay such costs may result in the immediate withholding of all building permits until such costs are paid.
- (f) The subdivider shall pay all costs of public improvements in the public streets adjacent to or within all public and/or park lands.
- (g) Development of park lands is to be completed as soon as twenty percent (20%) of the planned lots in the subdivision are sold or developed, as determined by the Common Council.

<b>Section 14.1.83</b>	Reserved for Future Use.
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## Article I: Variances; Penalties and Violations

### Section 14.1.100 Variations and Exceptions.

- (a) Where the subdivider alleges that extraordinary hardships or particular difficulties may result from strict compliance with these regulations, he/she may request variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of this Chapter. When in the judgment of the Common Council it would be inappropriate to apply literally a provision of this Chapter because the subdivision is located outside the corporate limits of the City or because extraordinary hardship would result or because the City deems it to be in the public interest, it may waive or vary such provision so that substantial justice will be done and the public interest secured; provided the requirement of filing and recording the plat shall not be waived. Application for any such variance shall be made in writing by the subdivider to the City Clerk at the time when the Preliminary Plat or certified survey is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans, or other additional data which may aid City officials in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan. The City Administrator may request that the City Engineer, City Attorney or other officials review each situation to insure that the request is consistent with the requirements and standards of this Chapter. The City Administrator shall refer the matter to the Plan Commission with any written recommendations from City staff. The Plan Commission shall make a determination and convey its decision in writing to the Common Council. The previous granting of variances or exceptions in the same or similar circumstances shall not of itself constitute grounds for the granting of a variance or exception, nor shall strictly financial rationale.
- (b) The Common Council shall not grant variations or exceptions to the regulations of this Chapter unless it shall make findings based upon the evidence presented to it in each specific case that:
  - (1) Failure to grant the variation may be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;



- (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property;
  - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, financial hardship or self-imposed hardship, if the strict letter of the regulations were carried out.
  - (4) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.
  - (5) There would be no costs (present or future) to the City resulting from the granting of the variance or exception.
- (c) Any recommendations for variances or exceptions by the Plan Commission must be approved by a minimum of five (5) affirmative Plan Commission member votes and shall be so endorsed by the Secretary and transmitted to the Common Council.
  - (d) The Common Council, if it approves, shall do so by resolution adopted by three-fourths (3/4) vote and shall instruct the City Clerk to notify the Plan Commission and the subdivider.
  - (e) Variances from the strict application of this Chapter may also be granted in accordance with this Chapter in the case of Planned Unit Developments provided the Common Council, upon review and recommendations from the Plan Commission, shall find that the proposed development is fully consistent with the purpose and intent of this Chapter, City Zoning Ordinances, and any City comprehensive plan.

### **Section 14.1.101 Enforcement, Penalties and Remedies.**

- (a) **Violations.** It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Chapter or the Wisconsin Statutes and no person shall be issued a building permit by the City authorizing the building on, or improvement of, any subdivision, land division or replat with the jurisdiction of this Chapter not of record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been fully met. The City may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin Statutes.
- (b) **Penalties.**
  - (1) Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit no less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) and the costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense.
  - (2) Recordation improperly made has penalties provided in Sec. 236.30, Wis. Stats.
  - (3) Conveyance of lots in unrecorded plats has penalties provided for in Sec. 236.31, Wis. Stats.

- (4) Monuments disturbed or not placed have penalties as provided for in Sec. 236.32, Wis. Stats.
  - (5) Assessor's plat made under Sec. 70.27, Wis. Stats., may be ordered by the City at the expense of the subdivider when a subdivision is created by successive divisions.
- (c) **Revocation of Permits and/or Approvals.**
- (1) The City Engineer, City Administrator or Building Inspector may revoke or suspend any permit or approval issued under the regulations of this Chapter and may stop construction or use of approved materials, equipment, methods of construction, devices or appliances for any of the following reasons:
    - a. Whenever the City Engineer shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the subdivider or his/her contractor has refused to conform after written warning or instruction has been issued to him/her.
    - b. Whenever the continuance of any construction becomes dangerous to life or property.
    - c. Whenever there is any violation of any condition or provisions of the application for permit, or of the permit or of any approval.
    - d. Whenever, in the opinion of the City Engineer, City Administrator or Building Inspector, the subdivider has provided inadequate management of the project.
    - e. Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, data specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
    - f. Whenever there is a violation of any of the conditions of an approval or occupancy given by the City Engineer, City Administrator or Building Inspector for the use of all materials, equipment, methods of construction, devices or appliances.
  - (2) The notice revoking a permit or approval shall be in writing and may be served upon the applicant of the permit, owner of the premises and his/her agent, if any, and/or on the person having charge of construction.
  - (3) A revocation placard shall also be posted upon the premises in question by the City Engineer, City Administrator or Building Inspector.
  - (4) After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this Chapter, shall be procured and fees paid therefor, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Chapter. However, such work as the City Engineer, City Administrator or Building Inspector may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he/she may require for the preservation of life and safety.

- (5) Any appeals of such revocations or suspensions must be made in writing and within seven (7) calendar days to the City Clerk for consideration by the Common Council at its next regularly scheduled meeting, provided the appeal is filed not less than seven (7) days prior to the meeting date.
  - (6) The Building Inspector is hereby directed to withhold the issuance of building permits within the land division until compliance with the provisions of this Chapter is obtained.
  - (7) The Building Inspector is hereby directed to withhold the issuance of occupancy permits within the land division if violations of this Chapter may result in health or safety problems for the occupants.
- (d) **Appeals.** Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in Secs. 236.13(5) and 62.23(7)(e)10, 14 and 15, Wis. Stats., within thirty (30) days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.

## **Section 14.1.102 Restrictions for Public Benefit.**

Pursuant to Sec. 236.293, Wis. Stats., any restriction placed on platted lands by covenant, grant of easement, land division or consolidation approval, which was required by the City of Hillsboro and which names a public body or public utility as grantee, promisee or beneficiary, vests in the public body or utility the right to enforce the restriction by law or in equity against anyone who has interest in the land subject to the restriction. The restriction may be released or waived by resolution of the Common Council.

# TITLE 15

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## Building Code

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# Title 15 - Chapter 1

## Building Code

### Section 15.1.1 Building Code Established.

- (a) **Title.** This Chapter shall be known as the "Building Code of the City of Hillsboro" and will be referred to in this Chapter as "this Code," "this Chapter" or "this Ordinance."
- (b) **Purpose.** This Chapter provides certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and/or structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished and regulates the equipment, maintenance, use and occupancy of all such buildings and/or structures. Its purpose is to protect and foster the health, safety and well-being of persons occupying or using such buildings and the general public.
- (c) **Scope.**
  - (1) New buildings hereafter erected in, or any building hereafter moved within or into the City, shall conform to all the requirements of this Chapter except as they are herein specifically exempted from part or all of its provisions. Any alteration, enlargement or demolition of an existing building and any installation therein of electrical, gas, heating, plumbing or ventilating equipment which affects the health or safety of the users thereof or any other persons is a "new building" to the extent of such change. The provisions of this Chapter supplement the laws of the State of Wisconsin pertaining to construction and use and the Zoning Code of the City and amendments thereto to the date this Chapter was adopted and in no way supersede or nullify such laws and the said Zoning Code.
  - (2) This Code applies to all dwellings, commercial buildings/structures, swimming pools, garages, structures, buildings, and residential accessory buildings. Not included are children's play structures and agricultural buildings.
  - (3) These regulations are adopted under the authority granted by Sec. 101.65, Wis. Stats.
- (d) **Building Inspector.** Due to the size of the City of Hillsboro, it may not be feasible to find a suitable person willing to take on the responsibility of being Building Inspector on a part-time basis. It is therefore provided that some function of the Building Inspector can be delegated to a committee of the Council or to another City official. An officer other than a Council member or another employee of the City may also be designated to handle the duties of Building Inspector on a part-time basis in addition to the other duties performed by such person.

## Section 15.1.2 Building Permits and Inspection.

(a) **Permit Required.**

(1) **General Permit Requirement.** No building of any kind shall be moved within or into the City of Hillsboro and no new building or structure, or any part thereof, shall hereafter be erected, or ground broken for the same, or enlarged, altered, moved, demolished, razed or used within the City, except as herein provided, until a permit therefor shall first have been obtained pursuant to this Chapter by the owner, or his/her authorized agent, from the Building Inspector or City Clerk pursuant to this Section. Prior to commencing any of the following work, the owner or his/her agent shall obtain a valid permit for:

- a. New buildings.
- b. Additions that increase the physical dimensions of a building including decks.
- c. Alterations to the building structure, cost shall include market labor value, or alterations to the building's heating, electrical or plumbing systems. Permits are required for re-siding.
- d. Exempted are finishing of interior surfaces, installation of cabinetry, and minor repair as deemed by the Building Inspector.
- e. Any electrical wiring for new construction or remodeling.
- f. Any HVAC for new construction or remodeling.
- g. Any plumbing for new construction or remodeling.
- h. Re-roofing. Unless structural calculations are provided, no more than two (2) layers of roofing shall be installed on a roof.
- i. Exempt are normal repairs performed in Subsection (a)(1)e-h.

(2) **Alterations and Repairs.** The following provisions shall apply to buildings altered or repaired:

- a. **Alterations.** When not in conflict with any regulations, alterations to any existing building or structure accommodating a legal occupancy and use but of substandard type of construction, which involves either beams, girders, columns, bearing or other walls, room, heating and air condition systems, arrangement, light and ventilation, changes in location of exit stairways or exits, or any or all of the above, then such existing construction shall be made to conform to the minimum requirements of this Chapter applicable to such occupancy and use and given type of construction.
- b. **Repairs.** Repairs for purposes of maintenance, or replacements in any existing building or structure which do not involve the structural portions of the building or structure or which do not affect room arrangement, light and ventilation, access to or efficiency of any exist stairways, or exits, fire protection, or exterior aesthetic appearance and which do not increase a given occupancy or use, shall be deemed minor repairs.

- c. ***Alterations When Not Permitted.*** When any existing building or structure, which, for any reason whatsoever, does not conform to the regulations of this Chapter, has deteriorated from any cause whatsoever to an extent greater than fifty percent (50%) of the equalized value of the building or structure, no alterations or moving of such building or structure shall be permitted. Any such building or structure shall be considered a menace to public safety and welfare and shall be ordered vacated and thereafter demolished and debris removed from the premises.
  - d. ***Alterations and Repairs Required.*** When any of the structural members of any building or structure have deteriorated from any cause whatsoever to less than their required strength, the owner of such a building or structure shall cause such structural members to be restored to their required strength; failing in which the building or structure shall be considered a menace to public safety and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the regulations of this Chapter are complied with.
  - e. ***Extent of Deterioration.*** The amount and extent of deterioration of any existing building or structure shall be determined by the Building Inspector.
- (b) **Application.**
- (1) Application for a building permit shall be made in writing upon a form furnished by the City Clerk and shall state the name and address of the owner of the land upon which the building is to be located, the name and address of the designer, the use to which said building is to be put, an attached site plan or plot plan to scale showing the building location, the front; side and rear yard measurements, and such other information as the Building Inspector or City Administrator may require.
- (c) **Site Plan Approval - Multi-Family and Commercial Structures.**
- (1) ***Site Plan Approval.*** All applications for building permits for any construction, reconstruction, expansion or conversion, except for one (1) and two (2) family residences in residentially zoned districts shall require site plan approval by the Plan Commission in accordance with the requirements of this Section, unless site plan review is required under the City Zoning Code. The applicant shall submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.
  - (2) ***Administration.*** The Building Inspector shall make a preliminary review of the application and plans requiring site plan review and refer them along with a report of his findings to the Plan Commission. The Plan Commission shall review the application and may refer the application and determine whether the application and plans meet all the requirements applicable thereto in this Chapter. Within thirty (30) days of its receipt of the application, the Plan Commission shall authorize the Building Inspector to issue or refuse a building permit.



- (3) **Requirements.** In acting on any site plan, the Plan Commission shall consider the following:
- a. The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
  - b. The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading; and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
  - c. The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
  - d. The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for offstreet parking shall be attractively planted with trees, shrubs, plants or grass lawns, and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent of purposes of this Section.
- (4) **Effect on Municipal Services.** Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Building Inspector or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall not issue the final approval until the City has entered into an agreement with the applicant regarding the development of such facilities.
- (5) **Appeals.** Denials of building permits contingent upon site plan approval may be appealed to the Board of Appeals by filing a notice of appeal with the City Clerk within seven (7) days of the denial.
- (d) **Dedicated Street and Approved Subdivision Required.** No building permit shall be issued unless the property on which the building is proposed to be built abuts a street that has been dedicated for street purposes. No building permits shall be issued until the subdivision and required improvements are accepted by the Common Council.
- (e) **Utilities Required.**
- (1) **Residential Buildings.** No building permit shall be issued for the construction of any residential building until sewer, water, grading and graveling are installed in the streets necessary to service the property for which the permit is required and a receipt for payment of electrical hookup is presented to the Building Inspector or Clerk.
  - (2) **Non-Residential Building.** No building permit shall be issued for the construction of any building other than residential until contracts have been let for the installation of sewer, water, grading and graveling in the streets necessary to service the property for which the permit is requested.

- (f) **Plans.** With such application, there shall be submitted three (3) complete sets of plans and specifications, including a plot plan showing the location and dimensions of all buildings and improvements on the lot, both existing and proposed, dimensions of the lot, dimensions showing all setbacks of all buildings on the lot, proposed grade of proposed structure (to City datum), grade of lot and of the street abutting lot, grade and setback of adjacent buildings (if adjacent lot is vacant, submit elevation of nearest buildings on same side of street), type of monuments at each corner of lot, water courses or existing drainage ditches, easements or other restrictions affecting such property, seal and signature of surveyor or a certificate signed by the applicant and a construction erosion control plan setting forth proposed information and procedures needed for control of soil erosion, surface water runoff and sediment disposition at the building site. Plans, specifications and plot plans shall be drawn to a minimum scale of one-quarter (1/4) inch to one (1) foot [fireplace details to three-quarters (3/4) inch to one (1) foot]. One (1) set of plans shall be returned after approval as provided in this Chapter. The second set shall be filed in the office of the Building Inspector. Plans for buildings involving the State Building Code shall bear the stamp of approval of the Wisconsin Department of Commerce (formerly the State Department of Industry, Labor and Human Relations). One (1) plan shall be submitted which shall remain on file in the office of the Building Inspector. All plans and specifications shall be signed by the designer. Plans for all new one (1) and two (2) family dwellings shall comply with the provisions of Ch. COMM 20.09(4), Wis. Adm. Code.
- (g) **Waiver of Plans; Minor Repairs.**
- (1) **Waiver.** If the Building Inspector finds that the character of the work is sufficiently described in the application, the Building Inspector may waive the filing of plans for alterations, repairs or moving, provided the cost of such work does not exceed Two Thousand Dollars (\$2,000.00).
  - (2) **Minor Repairs.** The Building Inspector may authorize minor repairs or maintenance work on any structure or to heating, ventilating or air conditioning systems installed therein with a fair market value of less than One Thousand Dollars (\$1,000.00), as determined by the Building Inspector including market value of labor, which do not change the occupancy area, exterior aesthetic appearance, structural strength, fire protection, exits, light or ventilation of the building or structure without issuance of a building permit.
- (h) **Approval of Plans.**
- (1) If the Building Inspector determines that the building will comply in every respect with all Ordinances and orders of the City he/she shall issue a building permit which shall state the use to which said building is to be put, which shall be kept and displayed at the site of the proposed building. After being approved, the plans and specifications shall not be altered in any respect which involves any of the above-mentioned Ordinances, laws or orders, or which involves the safety of the building or the occupants, except with the written consent of the Building Inspector.

- (2) In case adequate plans are presented for part of the building only, the Building Inspector, at his/her discretion, may issue a permit for that part of the building before receiving the plans and specifications for the entire building.
- (i) **Permit Lapses.** A building permit shall lapse and be void unless building operations are commenced within six (6) months or if construction has not been completed within eighteen (18) months from the date of issuance thereof.
- (j) **Inspection Warrants.** If the Building Inspector is denied access to inspect a property, he/she may request the City Attorney to seek an inspection warrant pursuant to Sec. 66.122, Wis. Stats.
- (k) **Revocation of Permits.**
- (1) The Building Inspector or the Common Council may revoke any building permit or approval issued under the regulations of this Chapter and may stop construction or use of approved new materials, equipment, methods of construction, devices or appliances for any of the following reasons:
- a. Whenever the Building Inspector shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the holder of the permit refused to conform after written warning or construction has been issued to him/her.
  - b. Whenever the continuance of any construction becomes dangerous to life or property.
  - c. Whenever there is any violation of any condition or provisions of the application for permit or of the permit.
  - d. Whenever, in the opinion of the Building Inspector, there is inadequate supervision provided on the job site.
  - e. Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, data specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
  - f. Whenever there is a violation of any of the conditions of an approval or occupancy given by the Building Inspector for the use of all new materials, equipment, methods or construction devices or appliances.
- (2) The notice revoking a building, plumbing or electrical certificate of occupancy or approval shall be in writing and may be served upon the applicant of the permit, owner of the premises and his/her agent, if any, and on the person having charge of construction.
- (3) A revocation placard shall also be posted upon the building, structure, equipment or premises in question by the Building Inspector or City representative.
- (4) After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this Chapter, shall be procured and fees paid therefor, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Chapter. However, such work as the Building Inspector may

order as a condition precedent to the reissuance of the building permit may be performed, or such work as he/she may require for the preservation of life and safety.

- (l) **Report of Violations.** City officers shall report at once any building which is being carried on without a permit as required by this Chapter.
- (m) **Display of Permit.** Building permits shall be displayed in a conspicuous place on the premises where the authorized building or work is in progress at all times during construction or work thereon.

### **Section 15.1.3 State Uniform Dwelling Code Adopted.**

(a) **Adoption of Codes.**

- (1) The following Wisconsin Administrative Codes and subsequent revisions are adopted for municipal enforcement:

Chs.	COMM 16-17	Electrical Code
Chs.	COMM 20-25	Uniform Dwelling Code
Ch.	COMM 26	Inspection Certification
Chs.	COMM 60-65	Commercial Building and Heating, Ventilating and Air Conditioning Code
Ch.	COMM 67	Rental Unit Energy Efficiency
Ch.	COMM 70	Historic Building Code
Chs.	COMM 81-87	Uniform Plumbing Code
Chs.	COMM 75-79	Existing Building Code

- (2) Any act required to be performed or prohibited by an Administrative Code provision incorporated herein by reference is required or prohibited by this Chapter. Any future amendments, revisions or modifications of the Administrative Code provisions incorporated herein are intended to be made part of this Chapter to secure uniform statewide regulation of one (1) and two (2) family dwellings in this City. A copy of these administrative code provisions and any future amendments shall be kept on file in the City Clerk's Office.

(b) **Existing Buildings.** The "Wisconsin Uniform Dwelling Code" shall also apply to buildings and conditions where:

- (1) An existing building to be occupied as a one (1) or two (2) family dwelling, which building was not previously so occupied.
- (2) An existing structure that is altered or repaired, when the cost of such alteration or repair during the life of the structure exceeds fifty percent (50%) of the equalized value of the structure, said value to be determined by the City Assessor.
- (3) Additions and alterations, regardless of cost, made to an existing building when deemed necessary in the opinion of the Building Inspector shall comply with the requirements of this Chapter for new buildings. The provisions of Section 15.1.2 shall also apply.

- (4) Additions and alterations - Any addition or alteration, regardless of cost, made to a building shall be made in conformity with applicable Sections of this Chapter.
- (c) **Definitions.** The following definitions shall be applicable in this Chapter:
  - (1) **Addition.** New construction performed on a dwelling which increases the outside dimensions of the dwelling.
  - (2) **Alteration.** A substantial change or modification other than an addition or minor repair to a dwelling or to systems involved within a dwelling.
  - (3) **Department.** The Wisconsin Department of Commerce, formerly the Department of Industry, Labor and Human Relations.
  - (4) **Dwelling.**
    - a. Any building, the initial construction of which is commenced on or after the effective date of this Chapter which contains one (1) or two (2) dwelling units; or
    - b. An existing structure, or that part of an existing structure, which is used or intended to be used as a one (1) or two (2) family dwelling.
  - (5) **Minor Repair.** Repair performed for maintenance or replacement purposes on any existing one (1) or two (2) family dwelling which does not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection or exterior aesthetic appearance and which does not increase a given occupancy and use. No building permit is required for work to be performed which is deemed minor repair.
  - (6) **One (1) or Two (2) Family Dwelling.** A building structure which contains one (1) or separate households intended to be used as a home, residence or sleeping place by an individual or by two (2) or more individuals maintaining a common household to the exclusion of all others.
  - (7) **Person.** An individual, partnership, firm or corporation.
  - (8) **Uniform Dwelling Code.** Those Administrative Code Provisions and any future amendments, revisions or modifications thereto, contained in the following chapters of the Wisconsin Administrative Code:
    - Wis. Adm. Code Ch. COMM 20 - Administrative and Enforcement
    - Wis. Adm. Code Ch. COMM 21 - Construction Standards
    - Wis. Adm. Code Ch. COMM 22 - Energy Conservation Standards
    - Wis. Adm. Code Ch. COMM 23 - Heating, Ventilating and Air Conditioning
    - Wis. Adm. Code Ch. COMM 24 - Electrical Standards
    - Wis. Adm. Code Ch. COMM 25 - Plumbing and Potable Water Standards
- (d) **Method of Enforcement.**
  - (1) **Certified Inspector Not Provided.** The City of Hillsboro, as a municipality under two thousand five hundred (2,500) in population, shall not contract with or provide a Building Inspector certified by the Department of Commerce in each category specified under COMM 5, Wis. Adm. Code, and in the category of plumbing for the purpose of enforcing the provisions of the One- and Two-Family Uniform Dwelling Code adopted in this Chapter. However, private individuals may, at their

own expense, contract with a certified Building Inspector for private inspection services.

- (2) **Inspection Powers.** The Building Inspector or an authorized certified agent may at all reasonable hours enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or refuse to permit access to any such premises to the Building Inspector or his/her agent while in performance of his/her duties.

## **Section 15.1.4 Construction Standards; Codes Adopted.**

- (a) **Portions of State Building Code Adopted.** Chapters COMM 60 through COMM 65, Wis. Adm. Code (Wisconsin State Building Code) are hereby adopted and made a part of this Chapter with respect to those classes of buildings to which this Building Code specifically applies. Any future amendments, revisions and modifications of said Chapters 60 to 65 incorporated herein are intended to be made a part of this Code. A copy of said Chapters 60 to 65 and amendments thereto shall be kept on file in the office of the City Clerk.
- (b) **State Plumbing Code Adopted.** The provisions and regulations of Chapter 145, Wis. Stats., and Wis. Adm. Code Chapters COMM 25, 81, 82, & 83 are hereby made a part of this Chapter by reference and shall extend over and govern the installation of all plumbing installed, altered or repaired in the City. Any further amendments, revisions and modifications of said Wisconsin Statutes and Administrative Code herein are intended to be made part of this Chapter.
- (c) **State Electrical Code Adopted.**
  - (1) Wis. Adm. Code COMM 24 is hereby adopted by reference and made a part of this Chapter and shall apply to the construction and inspection of new one (1) and two (2) family dwellings and additions or modifications to existing one (1) and two (2) family dwellings.
  - (2) Subject to the exceptions set forth in this Chapter, COMM 16 and PSC 114 Adm. Code are hereby adopted by reference and made a part of this Section and shall apply to all buildings, except those covered in Subsection (c)(1) above.
- (d) **Conflicts.** If, in the opinion of the Building Inspector and the Common Council, the provisions of the State Building Code adopted by Subsection (a) of this Section shall conflict with the provisions of the Federal Housing Administration standards in their application to any proposed building or structure, the Inspector and/or the City shall apply the most stringent provisions in determining whether or not the proposed building meets the requirements of this Section.

## **Section 15.1.5          New Methods and Materials.**

- (a) All materials, methods of construction and devices designed for use in buildings or structures covered by this Section and not specifically mentioned in or permitted by this Section shall not be so used until approved in writing by the Wisconsin Department of Commerce (formerly the State Department of Industry, Labor and Human Relations) for use in buildings or structures covered by the Wisconsin State Building Code, except sanitary appliances, which shall be approved in accordance with the State Plumbing Code.
- (b) Such materials, methods of construction and devices, when approved, must be installed or used in strict compliance with the manufacturer's specifications and any rules or conditions of use established by the Wisconsin Department of Commerce (formerly the State Department of Industry, Labor and Human Relations). The data, test and other evidence necessary to prove the merits of such material, method of construction or device shall be determined by the Wisconsin Department of Commerce (formerly the State Department of Industry, Labor and Human Relations).

## **Section 15.1.6          Unsafe Buildings.**

Whenever the Common Council find any building or part thereof within the City to be, in its judgment, so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human occupancy or use and so that it would be unreasonable to repair the same, they shall order the owner to raze and remove such building or part thereof or, if it can be made safe by repairs, to repair and make safe and sanitary, or to raze and remove at the owner's option. such order and proceedings shall be as provided in Sec. 66.0413, Wis. Stats.

*Cross-Reference:* Section 15.4.9.

## **Section 15.1.7          Disclaimer on Inspections.**

The purpose of the inspections under this Chapter is to improve the quality of housing in the City of Hillsboro. The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed, as a guarantee. In order to so advise owners and other interested persons, the following disclaimer shall be applicable to all inspections under this Chapter: "These findings of inspection contained herein are intended to report conditions of noncompliance with code standards that are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and nonstructural elements of the building and premises. No warranty of the operation, use or durability of equipment and materials not specifically cited herein is expressed or implied."

## Section 15.1.8 Regulation and Permit for Razing Buildings.

- (a) **Demolition Permit Required.** All persons who demolish or cause to be demolished any structure or part of a structure larger than four hundred (400) square feet within the City of Hillsboro shall apply for and obtain a demolition permit from the building inspector prior to undertaking any steps to demolish the structure. The fee for such permit shall be established in the Schedule of Fees as adopted annually by the Common Council.
- (b) **Application.** An application for a permit to demolish all or part of a building shall include the following information:
  - (1) The name and address of the owner of the building on date of application and, if different, on date of demolition;
  - (2) The name, address and telephone number of the contractor(s) performing the demolition work;
  - (3) The date upon which demolition is to commence;
  - (4) The date by which demolition shall be complete;
  - (5) A list of all hazardous waste and hazardous and toxic substances (as defined by NR 661.31 and 661.32, Wis. Adm. Code as amended from time to time) contained in the building, a statement as to whether the building contains asbestos [as defined by Sec. 254.11(1), Wis. Stats.], and a detailed description of the method to be used in removing, transporting and disposing of any hazardous waste, hazardous and toxic substances, and asbestos;
  - (6) A detailed description of how and where the waste materials resulting from the demolition will be transported and disposed of (including the description of the route to be used by trucks in hauling the waste);
  - (7) A description of the method of demolition to be used; and
  - (8) A description in detail of all methods to be used to prevent water runoff and soil erosion from the site to neighboring properties and to prevent releasing unreasonable amounts of dust from the site;
  - (9) Along with the application for permit for demolition, the applicant shall present a release from all utilities serving the property, stating that their respective service connections and appurtenant equipment such as meters and regulators have been removed or sealed and plugged in a safe manner.
- (c) **Demolition.** The demolition shall be conducted in a manner that is safe and that does not adversely affect the environment.
- (d) **Clearing and Leveling the Site.**
  - (1) The site of any demolition shall be properly cleared of debris, rubbish and pavement and shall be properly graded and leveled to conform with the adjoining grade of the neighboring property; and when so graded and leveled, the site shall be seeded, sodded or treated in same other manner acceptable to the Building



- Inspector so as to prevent blowing dust, dirt, or sand. Excavations remaining after demolition shall be filled, graded and leveled off, not later than thirty (30) consecutive days after demolition is completed.
- (2) Excavations from demolished buildings or structures shall not be filled with any materials subject to deterioration. The Building Inspector, upon notification by the permit holder, the owner or his/her agent, in writing and upon forms provided by the Building Inspector for that purpose, shall within seventy-two (72) hours inspect each excavation, or part thereof, before filling any excavation.
  - (3) It shall be unlawful to fill any such excavation without inspection and approval of the Building Inspector. Voids in filled excavations shall not be permitted. In the event of the unavailability of the Building Inspector to conduct an inspection within the seventy-two (72) hours after written notice; the permit holder, owner or his/her agent may retain the services of a certified, qualified municipal inspection service to obtain an opinion that approves filling of the excavation. Said opinion shall be deemed a sufficient approval by the City provided that a written copy of the opinion is delivered to the City Clerk at least forty-eight (48) hours before filling of the excavation commences.
- (e) **Removal and Disposal.** Removal, transportation and disposal of all hazardous waste, hazardous and toxic substances, and asbestos shall be conducted in compliance with all applicable state, federal and local statutes, ordinances and regulations. The permit holder shall give the Building Inspector seventy-two (72) hours written notice prior to any removal, transportation or disposal of hazardous waste, hazardous and toxic substances, and asbestos.
- (f) **Miscellaneous Provisions.**
- (1) A snow fence or other approved barricade shall be provided as soon as any portion of the building is removed and shall remain during razing operations.
  - (2) Razing permits shall lapse and be void unless the work authorized thereby is commenced within six (6) months from the date thereof or completed within thirty (30) days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required thirty (30) days must have special approval from the Building Inspector.
  - (3) All debris must be hauled away at the end of each week for the work that was done on that week. No combustible material shall be used for backfill, but shall be hauled away. There shall not be any burning of materials on the site of the razed building.
  - (4) If any razing or removal operation under this Section results in, or would likely result in, an excessive amount of dust particles in the air creating a nuisance in the vicinity thereof, the permittee shall take all necessary steps, by use of water spraying or other appropriate means, to eliminate such nuisance.
  - (5) The permittee shall take all necessary steps, prior to the razing of a building, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building as to prevent the spread and migration of rodents and insects therefrom during and after the razing operations.

## **Section 15.1.9 Basements; Excavations.**

- (a) **Basement Subflooring.** First floor subflooring shall be completed within sixty (60) days after the basement is excavated.
- (b) **Fencing of Excavations.** The owner of any premises on which there exists an opening or excavation which is located in close proximity to a public sidewalk or street right-of-way as to constitute a hazard to pedestrian or vehicular traffic shall erect a fence, wall or railing at least four (4) feet high between such opening or excavation and the public right-of-way.
- (c) **Closing of Abandoned Excavations.** Any excavation for building purposes or any uncovered foundation which shall remain open for more than three (3) months shall be deemed abandoned and a nuisance and the Building Inspector shall order that unless the erection of the building or structure on the excavation or foundation shall commence or continue forthwith suitable safeguards shall be provided to prevent accidental injury to children or other frequenters or that the excavation or foundation be filled to grade. Such order shall be served upon the owner of record or the owner's agent, where an agent is in charge of the premises, and upon the holder of an encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or the holder of an encumbrance of record cannot be found, the order may be served by posting it on the premises and make publication in the official newspaper for two (2) consecutive publications at least ten (10) days before the time for compliance stated in the order commences to run. Such time shall be not less than fourteen (14) nor more than twenty (20) days after service. If the owner of the land fails to comply with the order within the time required, the Building Inspector shall cause the excavation or foundation to be filled to grade. The cost of such abatement shall be charged against the real estate and entered on the next succeeding tax roll as a special charge and shall bear interest at a rate established by the Common Council from the date of the report by the Building Inspector on the cost thereof, pursuant to the provisions of Sec. 66.0703, Wis. Stats.

## **Section 15.1.10 Duplex and Multi-Service Connections.**

- (a) A duplex structure shall be allowed a common water service to the curb stop, but each unit of said duplex shall have a separate outside curb stop for the purpose of shutting water off in one (1) unit without disturbing the second unit.
- (b) Structures over two (2) units, if metered separately, shall also have individual outside curb stops for the purpose of shutting water off in one (1) unit without disturbing other units.
- (c) A common sewer service can be used for duplex and multiple unit structure from the sewer main to the structure.

## Section 15.1.11      Regulations for Moving Buildings.

(a) **General Requirements.**

- (1) No person shall move any building or structure upon any of the public ways of the City without first obtaining a permit therefor from the Building Inspector and upon the payment of the required fee. Every such permit issued by the Building Inspector for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued.
- (2) A report shall be made by City employees with regard to possible damage to trees. The estimated cost of trimming, removal and replacement of public trees, as determined by the City, shall be paid to the City Clerk prior to issuance of the moving permit.
- (3) Issuance of moving permit shall further be conditioned on approval of the moving route by the Common Council.

(b) **Moving Damaged Buildings.** No building shall be repaired, altered or moved within or into the City that has deteriorated or has been damaged by any cause (including such moving and separation from its foundation and service connections in case of moved buildings) fifty percent (50%) or more of its equalized value and no permit shall be granted to repair, alter or move such building within or into the City. Furthermore, if the equalized assessed value of the building is not within twenty percent (20%) of the surrounding buildings where the building is proposed to be moved to, no permit shall be granted unless the building is improved to be within the twenty percent (20%). Such determination shall be made by the Building Inspector, who may seek a recommendation from the City Assessor.

(c) **Continuous Movement.** The movement of buildings shall be a continuous operation during all the hours of the day and at night, until such movement is fully completed. All such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lights shall be kept in conspicuous places at each end of the building during the night.

(d) **Street Repair.** Every person receiving a permit to move a building shall, within one (1) day after said building reaches its destination, report that fact to the Building Inspector, inspect the streets, highways and curbs and gutters over which said building has been moved and ascertain their condition. If the removal of said building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place them in as good repair as they were before the permit was granted. On the failure of the said permittee to do so within ten (10) days thereafter to the satisfaction of the Common Council, the City shall repair the damage done to such streets and hold the

person obtaining such permit and the sureties on his/her bond responsible for the payment of same.

- (e) **Conformance with Code.** No permit shall be issued to move a building within or into the City and to establish it upon a location within the said City until the Building Inspector has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that said building is in a sound and stable condition and of such construction that it will meet the requirements of this Building Code in all respects. A complete plan of all further repairs, improvements and remodeling with reference to such building shall be submitted to the Building Inspector, and he/she shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this Building Code and that, when the same are completed, the building as such will so comply with said Building Code. In the event a building is to be moved from the City to some point outside the boundaries thereof, the provisions with respect to the furnishing of plans and specifications for proposed alterations to such building may be disregarded.
- (f) **Bond.**
  - (1) Before a permit is issued to move any building over any public way in the City, the party applying therefor shall give a bond to the City of Hillsboro in a sum to be fixed by the Building Inspector and which shall not be less than Five Thousand Dollars (\$5,000.00), said bond to be executed by a corporate surety or two (2) personal sureties to be approved by the Common Council or designated agent conditioned upon, among other things, the indemnification to the City for any costs or expenses incurred by it in connection with any claims for damages to any persons or property, and the payment of any judgment together with the costs and expenses incurred by the City in connection therewith arising out of the removal of the building for which the permit is issued.
  - (2) Unless the Building Inspector, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the exposed excavation, such as to make intrusion upon the premises and the falling into such excavation of children under twelve (12) years of age unlikely, the bond required by Subsection (e)(1) shall be further conditioned upon the permittee erecting adequate barriers and within forty-eight (48) hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the Building Inspector and reasonably adopted or calculated to prevent the occurrences set forth herein.
- (g) **Insurance.** The Building Inspector shall require, in addition to said the said bond above indicated, public liability insurance covering injury to one (1) person in the sum of not less than Five Hundred Thousand Dollars (\$500,000.00) and for one (1) accident, aggregate not less than One Million Dollars (\$1,000,000), together with property damage insurance in a sum not less than Five Hundred Thousand Dollars (\$500,000.00), or such other coverage as deemed necessary.

(h) **Common Council Approval.**

- (1) No such permit shall be issued unless it has been found as a fact by the Common Council by at least a majority vote, after an examination of the application for the permit which shall include exterior elevations of the building and accurate photographs of all sides and views of the same and in case it is proposed to alter the exterior of said building, plans and specifications of such proposed alterations and after a view of the building proposed to be moved and of the site at which it is to be located, that the exterior architectural appeal and functional plans of the building to be moved or moved and altered, will not be so at variance with either the exterior architectural appeal and functional plan of the buildings already constructed or in the course of construction in the immediate neighborhood or in the character of the applicable district established by the zoning ordinances of the City or any ordinance amendatory thereof or supplementary thereto, as to cause a substantial depreciation of the property values of said neighborhood within said applicable district. In case the applicant proposed to alter the exterior of said building after moving the same, he/she shall submit, with his/her application papers, complete plans and specifications for the proposed alterations. Before a permit shall be issued for a building to be moved and altered, the applicant shall give a cash bond to the Common Council, which shall not be less than Five Thousand Dollars (\$5,000.00) to be executed in the manner provided in subsection hereof to the effect that he will, within a time to be set by the Common Council, complete the proposed exterior alterations to said building in the manner set forth in his/her plans and specifications. This bond shall be in addition to any other bond or surety which may be required by other applicable ordinances of the City. No occupancy permit shall be issued for said building until the exterior alterations proposed to be made have been completed.
- (2) Upon application being made to the Building Inspector, he/she shall request a meeting of the Common Council to consider application for moving permits which he/she has found comply, in all respects, with all other ordinances of the City. The Common Council may, if it desires, hear the applicant for the moving permit in question and/or the owner of the lot on which it is proposed to locate the building in question, together with any other persons, either residents or property owners, desiring to be heard, give such notice of hearing as they may deem sufficient. Such hearing may be adjourned for a reasonable length of time and within forty-eight (48) hours after the close of the hearing, the Common Council shall, in writing, make or refuse to make the finding required by Subsection (h)(1) hereof and file it in the office of City Clerk who shall send a copy of it to the Building Inspector.

## Section 15.1.12 Construction Sites; Maintaining Clean Streets.

City streets are to be kept clean of dirt and debris from all construction sites. The primary contractor for any construction project shall be responsible for sweeping streets of debris within twenty-four (24) hours of the incident. The City of Hillsboro will clean said street(s) if the work is not done within twenty-four (24) hours of the incident; and charge the current established costs to the contractor for the work. Failure to pay said costs within thirty (30) days of receipt of the billing shall be deemed a violation of this Section, and be subject to the penalty provisions of Section 1.1.7.

## Section 15.1.13 Smoke Detectors.

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

- (1) **Residential Building.** Any public building which is used for sleeping or lodging purposes and includes any apartment house, rooming house, hotel, children's home, community-based residential facility or dormitory but does not include a hospital or nursing home.
- (2) **Sleeping Area.** The area of the unit in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.
- (3) **Smoke Detector.** A device which detects particles or products of combustion other than heat.
- (4) **Unit.** A residential building or that part of a residential building which is intended to be used as a home, residence or sleeping place by one (1) person or by two (2) or more persons maintaining a common household, to the exclusion of all others.

(b) **Approved Types.** A smoke detector required under this Section shall be approved by Underwriters Laboratory.

(c) **Installation and Maintenance.**

- (1) The owner of a residence building shall install any smoke detector required under this Section according to the directions and specifications of the manufacturer of the smoke detector.
- (2) The owner of a residential building shall maintain any such smoke detector that is located in a common area of that residential building.
- (3) The occupant of a unit in a residential building shall maintain any smoke detector in that unit, except that if an occupant who is not an owner, or a City officer, agent or employee charged under Statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that a smoke detector in the unit is not functional the owner shall provide, within

- five (5) days after receipt of that notice, any maintenance necessary to make that smoke detector functional.
- (d) **General Requirement.** The owner of a residential building the initial construction of which is commenced before, on or after May 23, 1978, shall install and maintain a functional smoke detector in the basement and at the head of any stairway on each floor level of the building and shall install a functional smoke detector either in each sleeping area of each unit or elsewhere in the unit within six (6) feet of each sleeping area and not in a kitchen.
- (e) **Requirement for Residences Under One (1) and Two (2) Family Dwelling Code.**
- (1) The owner of a dwelling shall install a functional smoke detector in the basement of the dwelling and on each floor level except the attic or storage area of each dwelling unit. The occupant of such a dwelling unit shall maintain any smoke detector in that unit, except that if any occupant who is not the owner, or any City officer, agent, or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that the smoke detector is not functional the owner shall provide, within five (5) days after receipt of that notice, any maintenance necessary to make that smoke detector functional.
- (2) City authorities may inspect new dwellings, may inspect the common areas of dwellings and, at the request of the owner or renter, may inspect the interior of a dwelling unit in a dwelling to ensure compliance with this Section.
- (f) **Manufactured Homes; Mobile Homes.** As prescribed by Sec. 101.745, Wis. Stats., manufactured homes and mobile homes shall meet the smoke detector requirements of this statutes and this Section.

*State Law References:* Secs. 101.145, 101.645, and 101.745, Wis. Stats.

## Section 15.1.14 Licensing of Electricians.

- (a) **Statutory Provisions Adopted.** This Section is adopted pursuant to Sec. 101.86(1), Wis. Stats., which is adopted by reference and made a part of this Section as if fully set forth herein.
- (b) **Definitions.** The following definitions shall be applicable in this Section:
- (1) **Electrical Work.** Electrical work means and includes the installation, superintending, or inspection of electrical wiring and equipment for the production, modification, regulation, control, distribution, utilization or safeguarding, of electrical energy for mechanical, chemical, heating, lighting or similar purposes.
- (2) **Electrical Contractor.**
- a. **General.** An electrical contractor is any person who is certified by the State of Wisconsin.
- b. **Restricted.** An electrical contractor who is restricted to only specific wiring.

- (3) ***Journeyman Electrician.*** A journeyman electrician is any person other than an electrical contractor who is skilled in the installation of electrical wiring and equipment for the production, modification, control, distributions, utilization, or safeguarding of electrical energy for mechanical, chemical, heating, lighting, or similar purposes. He/she shall be at least 18 years of age.
  - (4) ***Plant Electrician.*** A plant electrician is a journeyman electrician whose electrical work is limited exclusively to the plant or ship where he/she is regularly employed.
- (c) **Electrical Licenses Required.**
- (1) No person shall alter, install or repair electrical wires and apparatus for the utilization of electric current for light, heat, or power in the City, except in the usual operations of a public utility company, or a homeowner having work done in a non-recompensable manner, without first having procured a license therefor as hereinafter provided in this Section.
  - (2) Application renewal for a license shall be made on forms furnished by the City Clerk or Building Inspector. An applicant shall pay a fee prior to granting or renewal of his/her license. The license for the person, firm, or corporation installing or altering any electrical wiring or equipment, shall expire on the thirtieth (30<sup>th</sup>) day of June. All such licenses shall be issued for one (1) year commencing on the first day of July and expiring on the thirtieth (30<sup>th</sup>) day of June. The fees for such licenses shall be paid to the City Treasurer and credited to the general fund and no license shall be held valid unless signed by the Building Inspector and stamped as paid by the City Treasurer in the amount required by such license.
  - (3) No license will be granted unless the licensee can show proof of General Liability Insurance of at least five hundred thousand dollars (\$500,000) or a sufficient amount to cover any loss or damage that may result.
- (d) **License Requirements.**
- (1) Each Applicant must present proof of five (5) years experience as an Electrician, unless provided otherwise in this Section for a license or in the case of a firm or corporation that an employee has such certification.
  - (2) Each applicant must present a Federal Tax Identification number to apply for a Electrical Contractor's License.
  - (3) The City Administrator may investigate any charges or complaints filed which may be brought against the holder of a license and revoke such license for repeated violations or noncompliance with any of the provisions of this Section on the part of the licensee or any person performing any work under their direction. An aggrieved party may appeal directly to the Common Council.
- (e) **Maintenance License.** Any firm or corporation may be granted a maintenance license upon condition that such firm or corporation regularly employs a City-approved electrician who has charge of the electrical work in the plant. Such license shall permit the holder to install or repair electrical wires and apparatus within the plant of the firm or corporation. At the time of making application for a license, the firm or corporation making the application shall file, in writing, a certificate with affidavit naming the person



who shall be in charge of such maintenance work and the number of years they have been engaged as a practical electrician.

- (f) **License Nontransferable.** Licenses issued pursuant to the terms of this Section shall not be transferable.
- (g) **Appliance Installer.** Any person that installs an appliance as a business or for a profit must apply for an Appliance Installer License.
- (h) **Inspections.** The City may, at its discretion, hire a professional inspector to inspect all electrical installations or services that occur in the City. If such inspection occurs and when such electrical work is found to be in a dangerous or unsafe condition, the inspector shall notify the person, firm or corporation owning, using, operating or installing such electrical work to correct the defect and to make any and all necessary repairs. Failure to do so in a timely manner may result in revocation of the City license.
- (i) **Revocation.** Any license granted under the provisions of this Section may be suspended by the City Administrator or may be revoked by the Common Council if the licensee violates any ordinance or law relating to electrical work or is guilty of installing electrical construction which is a hazard to life or property, but no license shall be suspended or revoked unless the licensee has been notified in writing of charges against them and the time, place, when, and where they may appear before the Council to answer such charges. When a license is suspended, such license shall be automatically reinstated on the date specified in the order of suspension unless the suspension shall have been because of a faulty installation of electrical construction, in which case such license shall be reinstalled only upon correction of the faulty installation. When a license is revoked, a new license shall not again be granted to the licensee until such licensee shall have applied for a new license and met all the requirements of this Section and state codes governing electrical contractors.
- (j) **City Not Liable.** This Section shall not be construed to relieve from or lessen the responsibility or liability of any person supplying electricity to, or selling, renting, leasing, owning, using, operating, controlling, installing, altering, repairing, removing, replacing, disturbing, connecting, disconnecting, or maintaining any electrical wiring, device or equipment, for damages to persons or property caused by any defect therein or therefrom; nor shall the City be held as assuming any such responsibility or liability by reason of the issuance or revocation of any license, permit or certificate, or the inspection or reinspection authorized by the Section, or by any reason associated with electrical work. Nor shall the City be held liable for any damages resulting from the enforcement of this Section.

## **Section 15.1.15 Fees.**

- (a) **Fees.** The fees for building permits shall be set by Resolution of the City Council and amended from time to time.
- (b) **Special Charge for Failure or Refusal to Obtain Building Permit.** Each person who fails or refuses, when required under this Chapter, to apply for and obtain a building

permit in advance of beginning construction of a building or other structure for which such a permit is required shall, in addition to the ordinary and customary fee established pursuant to this Section, pay a special charge equal to double the amount of the building permit fee at the time that the permit is acquired but not to exceed Five Thousand Dollars (\$5,000.00) in total. Further, in the event that such a person fails or refuses to apply for and obtain such a permit, despite a demand from the Building Inspector to do so, the Building Inspector shall have the authority to post a cease work order pending compliance with this Section. The Building Inspector shall also have the authority, after notice has been given to an owner or occupant who has failed to obtain a building permit, to, upon approval of the Common Council, refer the matter of the unpaid permit fee and special charge to the City Attorney for prosecution, in which event the City Attorney shall, in addition to seeking recovery of the fee and special charge, seek assessment by the Court of the penalty under Section 15.1.16.

## **Section 15.1.16 Penalties and Violations.**

- (a) Any building or structure hereafter erected, enlarged, altered or repaired or any use hereafter established in violation of the provisions of this Chapter shall be deemed an unlawful building, structure or use. The Building Inspector shall promptly report all such violations to the Common Council and City Attorney who shall bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building or structure or the establishment of such use of buildings in violation of this Chapter or to cause such building, structure or use to be removed and may also be subject to a penalty as provided in the general penalty provisions of Section 1.1.7 of this Code of Ordinances. In any such action, the fact that a permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the Building Inspector or other City officials constitute a defense. Compliance with the provisions of this Chapter may also be enforced by injunctive order at the suit of the owner or owners of any real estate within the jurisdiction of this Chapter.
- (b) If an inspection reveals a noncompliance with this Chapter or the Uniform Dwelling Code, the Building Inspector shall notify the applicant and the owner, in writing, of the violation to be corrected. All cited violations shall be corrected within thirty (30) days after written notification unless an extension of time is granted pursuant to Sec. COMM 20.10(1)(c), Wis. Adm. Code.
  - (1) If, after written notification, the violation is not corrected within thirty (30) days, a stop-work order may be served on the owner or his or her representative and a copy thereof shall be posted at the construction site. Such stop-work order shall not be removed except by written notice of the Building Inspector after satisfactory evidence has been supplied that the cited violation has been corrected.
  - (2) Each day each violation continues after the thirty (30) day written notice period has run shall constitute a separate offense. Nothing in this Chapter shall preclude the

City from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter or the Uniform Dwelling Code.

- (3) If any construction or work governed by the provisions of this Chapter or the Uniform Dwelling Code is commenced prior to the issuance of a permit, double fees shall be charged.
- (c) Any person feeling aggrieved by an order or a determination of the Building Inspector may appeal from such order or determination to the Board of Appeals. Those procedures customarily used to effectuate an appeal to the Board of Appeals under the City's Zoning Code shall apply.
- (d) Except as may otherwise be provided by the statute or ordinance, no officer, agent or employee of the City of Hillsboro charged with the enforcement of this Chapter shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties under this Chapter. Any suit brought against any officer, agent or employee of the City as a result of any act required or permitted in the discharge of his/her duties under this Chapter shall be defended by the legal representative of the City until the final determination of the proceedings therein.

# Title 15 - Chapter 2

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## Construction Site Erosion and Stormwater Runoff Control

### Section 15.2.1 Authority.

This Chapter is adopted pursuant to the guidelines in Sec. 62.234(2), Wis. Stats.

### Section 15.2.2 Findings and Purpose.

- (a) **Policy Declaration.** The Common Council finds runoff from land disturbing activities carries a significant amount of sediment and other pollutants to the waters of the State and the City of Hillsboro.
- (b) **Purpose.** It is the purpose of this Chapter to preserve the natural resources; to protect the quality and quantity of the surface and ground waters of the State and City; and to protect and promote the health, safety and welfare of the people, to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharge from land disturbing activities to lakes, streams and wetlands. The Common Council finds that land uses have significantly contributed to the process of soil erosion, runoff, and sediment deposition in waters located within or near the City. It is, therefore, declared to be the purpose of this Chapter to control and, if possible, prevent soil erosion and water runoff increases and, thereby, to preserve the natural resources, control floods, and prevent impairment of dams and reservoirs, protect the quality and quantity of public waters and wetlands, prevent property damage, preserve wildlife, protect the tax base and protect and promote the health, safety, and general welfare of the people of the City of Hillsboro. This Chapter is in accordance and consistent with the City's Zoning Code, so far as practicable.

### Section 15.2.3 Applicability of Regulations.

- (a) **Scope of Coverage.** This Chapter applies to land disturbing and land developing activities on land within the boundaries and jurisdiction of the City and the public and private lands subject to extraterritorial review under Ch. 236, Wis. Stats. All State funded

or conducted construction is exempt from this Chapter. This Chapter shall apply outside the City limits within the extraterritorial plat review area provided by Chapter 236, Wis. Stats., and Title 15 of the City Code of Ordinances, but only to those land disturbing activities relating to, arising from, or connected with a subdivision as defined in Sec. 236.02(12), Wis. Stats., and certified surveys as defined in this Code of Ordinances.

- (b) **Exclusions.** The following activities are generally excluded from coverage under this Chapter:
- (1) State funded or conducted activities that are subject to the State Site Erosion Control and Stormwater Runoff Plan. State funded or conducted construction activities must meet the requirements contained in the "State Plan for the Control of Construction Erosion and Stormwater Runoff", which contains similar requirements as contained in this Chapter, as a minimum.
  - (2) Agricultural land uses as defined in this Chapter and quarries, except where the Common Council, Plan Commission, City Engineer or Building Inspector determine that erosion or runoff from such agricultural or quarry uses is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.
  - (3) Small land disturbing activities such as gardens, minor landscaping modifications and minor repair of sidewalks, paths or driveways, except where the Common Council, Plan Commission, City Engineer or Building Inspector determine that erosion or runoff is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.

## Section 15.2.4 Definitions.

- (a) The following definitions shall be applicable in this Chapter:
- (1) **Agricultural Land Use.** Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.
  - (2) **Building Inspector.** The Building Inspector of the City of Hillsboro.
  - (3) **Commercial Land Use.** Use of land for the retail or wholesale sale of goods or services, including office parks where non-retail business takes place.
  - (4) **Control Measure.** A practice or combination of practices to control erosion and attendant pollution, (also known as "Best Management Practice").
  - (5) **Control Plan.** A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this Chapter submitted by the applicant for review and approval by the Building Inspector and/or City Engineer.
  - (6) **Erosion.** The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
  - (7) **Existing Grade.** The vertical location of the existing ground surface prior to excavation or filling.

- (8) **Fill.** Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man/woman to a new location and shall include the conditions resulting therefrom.
- (9) **Grading.** Altering the elevation of the land surface by stripping, excavating, filling, stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.
- (10) **Land Disturbing Activity.** Any change to the land surface which may result in soil erosion, sedimentation or increase in water runoff, including but not limited to tilling, removal of vegetative cover, stockpiling of soil, grading, excavating, livestock grazing and filling of land.
- (11) **Landowner.** Any person holding title to or having any interest in land.
- (12) **Land Treatment Measurers.** Structural or vegetative practices (including fencing) used to control erosion, sediment and water runoff (also known as "Best Management Practices").
- (13) **Land User.** Any person who uses land collectively or individually as owner, operator, lessor or renter, or who occupies land by providing work or service that requires alteration of the land, or any person who has made other arrangements with a landowner which gives them the right and/or responsibility for use of the land.
- (14) **Major Land Disturbing Activities.** Those activities where the land disturbance covers one or more acres, where a subdivision (as defined by Chapter 236, Wis. Stats.) is created, or where the Common Council, Plan Commission, City Engineer or Building Inspector determines that special circumstances due to topography, proximity to watercourses or relation to sensitive environmental area make the disturbance a major one.
- (15) **Minor Land Disturbing Activities.** Those activities where the land disturbance covers less than one (1) acre and the activities do not otherwise fall within the definition of major land disturbing activities.
- (16) **Parcel.** All continuous lands under the ownership or control of a land occupier or land user.
- (17) **Peak Flow.** The maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or flood.
- (18) **Person.** Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government or any combination thereof.
- (19) **Public Lands.** All lands owned or controlled by any unit of government.
- (20) **Runoff.** Includes, but is not limited to, ice or water flowing over the ground surface.
- (21) **Sediment.** Solid material, mineral or organic, that is in suspension, is being transported to, or has been moved from, its site of origin by air, water, gravity or ice and has come to rest or has been deposited on the earth's surface at another location.

- (22) **Sedimentation.** The transportation and deposition of sediment that may ultimately degrade water quality by the presence of suspended solid particles, derived from soils by erosion or discharged into surface waters from other sources, or the deposition of water-borne sediments in stream channels, lakes, reservoirs, or on floodplains, usually resulting from a decrease in the velocity of the water flow.
- (23) **Site.** The entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.
- (24) **Soil Loss.** Soil removed from a given site by land disturbing activities or by the forces of erosion, and redeposited at another site.
- (25) **Storm Frequency.** The average period of time during which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- (26) **Storm Sewer.** A closed conduit for conducting collected storm water.
- (27) **Stormwater Runoff.** The waters derived from rains falling within a tributary drainage basin, flowing over the ground surface or collected in a water drainage system.
- (28) **Structural Measures.** Land treatments or Best Management Practices intended to prevent erosion, sediment or runoff that include, but are not limited to, gully control structures, grass waterways, riprap, detention basins or ponds, sediment basins or ponds, infiltration basins or trenches, flood retention dams, diversions, and lining channels with rock concrete or other materials. Contour strip cropping is not considered a structural measure under this Chapter.
- (29) **Water Drainage Facility.** Any element in a water drainage system which is made or improved.
- (30) **Water Drainage System.** All facilities used for conducting runoff to, through or from a drainage area to the point of final outlet including, but not limited to, any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, reservoirs, detention basins or ponds, storm sewers, streets, and pumping stations.
- (31) **Working Day.** Monday, Tuesday, Wednesday, Thursday or Friday, excluding, however, any such day officially observed by the City as a legal holiday. Also referred to as "business day".

## **Section 15.2.5      Design Criteria, Standards and Specifications for Erosion Control Measures.**

All control measures required to comply with this Chapter shall be measures based on accepted design criteria, standards and specifications periodically established by the United States Soil Conservation Service, Wisconsin Department of Natural Resources or otherwise identified as acceptable by the Building Inspector or City Engineer. Where design criteria, standards or specifications conflict, the most restrictive provisions shall apply.

## **Section 15.2.6 Maintenance of Control Measures.**

All sedimentation basins and other control measures necessary to meet the requirements of this Chapter shall be maintained consistent with the maintenance provisions contained in "Wisconsin Construction Site Best Management Practice Handbook" by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.

## **Section 15.2.7 Required Control of Erosion and Pollutants During Land Disturbance and Development.**

- (a) **Applicability.** This Section applies to the following sites of land development or land disturbing activities:
- (1) Those sites requiring certified survey map approval or subdivision or land division plat approval under City land division ordinances.
  - (2) Those sites involving the construction of buildings or other improvements on lots of approved certified surveys, land division plats or subdivision plats.
  - (3) Those involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of four thousand (4,000) square feet or more.
  - (4) Those involving excavation or filling or a combination of excavation and filling affecting four hundred (400) cubic yards or more of dirt, sand or other excavation or fill material.
  - (5) Those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.
  - (6) Those involving the laying, repairing, replacing, inspecting or enlarging of an underground pipe or facility for a distance of three hundred (300) feet or more.
  - (7) Those sites involving the changing, enlargement, dredging or other alteration to any watercourse, waterway and/or wetlands.
  - (8) Those other situations [e.g. developments with slopes over twelve percent (12%)] where the City Engineer or Building Inspector, at the request of the Plan Commission or Common Council, determine that erosion or runoff is likely to occur unless control measures are taken.

**NOTE:** The above applicability criteria are specifically stated in 1983 Wisconsin Act 416 for inclusion in this Chapter. Utility companies responsible for energy repair work should enter into a "memorandum of agreement" with the City clearly stating their responsibilities if their activities may be included under any of the above applicability criteria.



- (b) **Minimum Erosion Control Standards to be Met.** At a minimum, the erosion and runoff control standards listed below must be met on all sites described in Subsection (a) above. Additional or more stringent control standards may be required in those situations where the City Engineer and/or Building Inspector determines that special circumstances due to topography, proximity to watercourses or environmentally sensitive areas justify additional or more stringent controls. The permittee is responsible for obtaining compliance with the required standards. In cases where no permit has been issued, the landowner is responsible for obtaining compliance with the required standards.

## **Section 15.2.8 Land Disturbing Activities Subject to Stormwater Runoff Control.**

(a) **Temporary Best Management Practices.**

- (1) ***Temporary Best Management Practice Needs for Various Drainage Areas.*** The following temporary best management practices shall be used to control sediment where erosion of the site, including dirt piles, during construction will result in sediment reaching waters of the state, public sewers or other off site areas:
- a. Small drainage areas with overland flow [generally less than one (1) acre]. For drainage areas with overland flow [generally less than one (1) acre], a filter fabric fence or equivalent best management practice placed along the downslope areas and along the sideslope areas as required or the disturbed area shall be properly mulched.
  - b. Drainage areas of two (2) acres or less with concentrated or channelized flow. For drainage areas of two (2) acres or less with concentrated or channelized flow, a filter fabric barrier or equivalent best management practice placed at the downslope point of the disturbed area or the disturbed area shall be properly mulched.
  - c. Drainage areas of five (5) acres or less with concentrated or channelized flow, a sediment trap or equivalent best management practice placed at the downslope point of the disturbed area.
  - d. Drainage areas of more than five (5) acres with concentrated or channelized flow. For drainage areas of more than five (5) acres with concentrated or channelized flow, a sediment basin or equivalent best management practice placed at the downslope point of the disturbed area. The basin shall be properly maintained and cleared out when necessary.
  - e. Steep slopes. Slopes of twelve (12) or more percent may require use of additional best management practices.
- (2) ***Sequenced Activities.*** All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time and the amount of soil leaving the site.

- (3) **Site Stabilization.** When the disturbed area is properly stabilized by established vegetation or other permanent means, the temporary best management practices may be removed.

**NOTE:** Permanent best management practices specified in the Wisconsin Construction Site Best Management Practice Handbook include sodding; seeding; grassed waterway; geotextile reinforced grassed waterway; and rock and concrete lined waterway.

- (4) **Tracking Minimization.** Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any significant sediment reaching a public or private road shall be removed by street cleaning before the end of each work day. Flushing may not be used unless the sediment will be controlled by a filter fabric barrier, sediment trap, sediment basin or equivalent.
- (5) **Drain Inlet Protection.** Downslope on-site storm drain inlets shall be protected.
- (6) **Site Dewatering.** Water pumped from the site shall be discharged to an appropriately sized filter fabric barrier, sediment tarp, sediment basin or equivalent best management practice.

**NOTE:** Site dewatering on some sites is covered under the Wisconsin Pollutant Discharge Elimination System Permit Program.

- (7) **Sediment Cleanup.** All off-site sediment deposits occurring as a result of a storm event shall be cleaned up by the end of the next work day following the occurrence. All other off-site sediment deposits occurring as result of construction activities shall be immediately cleaned up.
- (8) **Waste and Material Management and Disposal.** All waste and unused building materials shall be properly managed and disposed to prevent pollutants and debris from being carried by runoff off the site.
- (9) **Roof Drainage.** All roof drainage from permanent buildings shall discharge to pervious surfaces to increase infiltration and reduce increases in runoff except where demonstrated to be infeasible and a written waiver is granted by the City Engineer or Building Inspector.
- (b) **Additional Erosion Control Standards to be Met on Larger Sites.** These control standards are in addition to the minimum control standards as set forth in Subsection (a), and thus include, but are not limited to, all sites involving land divisions, subdivisions or certified survey maps (where land divisions, subdivisions or certified survey maps involve either one (1) or more acres or create five (5) or more lots or building sites), or all sites where one (1) or more acres are disturbed at a time, where special circumstance due to topography, proximity to watercovers or relation to environmentally sensitive lands make the disturbance a major one, shall meet the added control plan requirements as set up by the City Engineer or Building Inspector. These requirements may include required

public dedication of water runoff control measures. The permittee is responsible for obtaining compliance with the control plan requirements. Informal guidelines for the control plan for a major land disturbing activity are hereto attached and incorporated herein as a part of this Chapter as an addendum.

- (c) **Special Circumstances.** The control standards set forth in this Chapter are intended to apply on a typical development site. When land disturbing and/or development activity is proposed for a site with extraordinary features, the Plan Commission may recommend to the Common Council and the Council, at its discretion, will require additional and/or more restrictive control standards and measures before any control plan is approved or permit is issued. Extraordinary sites include, but are not limited to, sites where land disturbing or development activities are proposed to occur on slopes of more than twelve percent (12%) grade in designated floodplain, wetland, or conservancy areas or in environmental corridor areas identified in the City Master Plan.
- (d) **Land Disturbing Activities Subject to Stormwater Runoff Control.**
- (1) Land disturbing activities on public lands as defined herein, and on all private lands shall be subject to the runoff control provisions of this Section, if:
- a. The activity will be a residential development having less than fifty percent (50%) impervious area, disturbing more than five (5) acres.
  - b. The activity will be a residential development having more than fifty percent (50%) impervious area, disturbing more than three (3) acres.
  - c. The activity will be a nonresidential development, disturbing more than three (3) acres, or
  - d. A parking lot of one (1) acre or more, or
  - e. In the opinion of the City Engineer, the runoff from the land disturbing activity will create a hazard by exceeding the safe capacity of the receiving water body in the area; or will cause undue channel erosion or an undue increase in water pollution by increased scour and transport of particles; or will otherwise endanger the downstream property owners or their property. Safe capacity is defined as the rate of flow that can be handled without flooding.
- (2) The owner, land occupier or land user shall be in compliance with this Subsection if he/she follows the procedure of Section and receives from the City Engineer an approved control plan and a permit before commencement of any land disturbing activities on lands subject to control under this Section.
- (e) **Standards for Stormwater Runoff Control for Land Disturbing Activities.**
- (1) Land disturbing activities subject to runoff control regulation as described in this Chapter shall meet the corresponding requirements of subparagraphs a, b and c below:
- a. Residential and other non-industrial, and non-commercial certified surveys shall incorporate the following stormwater control measures:

- b. All roof drainage shall discharge to either:
  - 1. Pervious surfaces with an overland flow distance of at least thirty (30) feet;
  - 2. An infiltration device.
- (2) All driveways shall slope to adjacent lawns to the extent practicable.
- (3) Where conditions are such that the depth to the water table is three (3) feet or greater during at least nine (9) months of the year, the stormwater drainage system for the development shall include grassed swales for area drainage and underground perforated drainage pipe for storm runoff conveyance. The applicant shall be responsible for documentation for areas to be exempted from these measures. Where the City Engineer finds the above to be impracticable, conveyance shall be by traditional means.
  - a. Industrial sites of less than one hundred thousand (100,000) square feet; and nonindustrial paved parking and storage areas with surface areas totaling five thousand (5,000) to five hundred thousand (500,000) square feet shall discharge to one (1) or more grit chambers or oil and grease traps. Each grit chamber or oil and grease trap shall be designed to remove all particles greater than one hundred (100) microns in size and shall be cleaned at least once every three (3) months. The pumped liquids from cleaning shall be discharged to a licensed wastewater treatment plant.
  - b. Industrial sites of more than one hundred thousand (100,000) square feet; nonindustrial paved parking lots and storage areas greater than five hundred thousand (500,000) square feet; and industrial roofs larger than ten thousand (10,000) square feet shall discharge to one (1) or more wet detention basins. These basins shall have an aggregate area respectively of. At least one and one-half percent (1.5%) of the contributing surface area of the industrial site or three percent (3%) of the contributing paved industrial areas, whichever is greater; at least three percent (3%) of the nonindustrial paved area draining to it; and at least three percent (3%) of the industrial roof area draining to it. These basins shall have a permanent pool depth of three (3) feet and shall be excavated periodically as needed to maintain the three (3) foot depth.
- (4) Regardless of proposed land use the proposed development shall:
  - a. Not increase peak flow rates of storm runoff from that which would have resulted from the same storm occurring over the site with the land in its predevelopment condition, for storms of twenty-four (24) hour duration and recurrence intervals of two (2), five (5), ten (10), twenty-five (25), fifty (50) and one hundred (100) years: and
  - b. The volume of storm runoff resulting from the ten (10) year storm of twenty-four (24) hour duration shall not be greater after development than would have resulted from the same storm occurring over the site with the land in its predevelopment condition. Where a. and/or b. are found to be unacceptable or inevitable on the proposed site by the City Engineer, the applicant shall

- specify an off-site area to meet there provision and provide a suitable alternative contribution or determined in negotiation with the City Engineer.
- (f) **Erosion and Runoff Control by Public Dedication of Water Runoff Control.** The Common Council may require dedication of water runoff control measures. When such dedication is required, the dedicated land may also be utilized for parkland and for recreational use. Once dedicated and accepted, the City shall maintain the runoff control measures as necessary to adhere to this Chapter and any other applicable laws or contracts. The potential costs of maintaining proposed runoff control measures will be among the criteria considered in both accepting or rejecting an entire "Erosion and Runoff Control Plan" for the areas and determining whether or not to require dedication to the City of and/or all runoff control measures. In the event that the City does not require dedication of any water runoff control measures, the continued maintenance of such measures shall be assured through such means as deed restrictions, easements or a contract with the City.

## **Section 15.2.9 Permit Application, Control Plan, and Permit Issuance.**

- (a) **Permit Application.** No landowner or land user, other than the City, may commence a land disturbance or land development activity subject to this Chapter without receiving prior approval of a control plan for the site and a permit from the City Engineer. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this Chapter shall submit an application for a permit and a control plan and pay an application fee to the Building Inspector or City Engineer. By submitting an application, the applicant is authorizing the Building Inspector, City Engineer and other designated City officials to enter the site to obtain information required for a review of the control plan.
- (b) **Content of the Control Plan for Land Disturbing Activities.**
- (1) ***Existing Site Map.*** A map of existing site conditions on a scale of at least one (1) inch equals one hundred (100) feet showing the site and immediately adjacent areas:
- a. Site boundaries of adjacent lands which accurately identify site location;
  - b. Lakes, streams, wetlands, channels, ditches and other water courses on and immediately adjacent to the site. (Note: The local unit of government should identify sensitive local waters that may need to be further addressed by the control plan.);
  - c. 100 year floodplains, flood fringes and floodways;
  - d. Vegetative cover;
  - e. Location and dimensions of stormwater drainage systems and natural drainage patterns on the site and the size, slope and land cover of the upslope drainage areas;

- f. Locations and dimensions of utilities, structures, roads, highways, and paving; and
    - g. Site topography at a contour interval not to exceed five (5) feet.
  - (2) **Plan of Final Site Conditions.** A plan of final site conditions on the same scale as the existing site map showing the site changes.
  - (3) **Site Construction Plan.** A site construction plan including:
    - a. Locations and dimensions of all proposed land disturbing activities;
    - b. Locations and dimensions of all temporary soil or dirt stockpiles;
    - c. Locations and dimensions of all construction site management control measures necessary to meet the requirements of this Chapter;
    - d. Schedule of anticipated starting and completion date of each land disturbing or land developing activity including the installation of construction site control measures needed to meet the requirements of this Chapter; and Provisions of maintenance of the construction site control measures during construction.
    - e. Provisions of maintenance of the construction site control measures during construction.
- (c) **Emergency Situations.** Notwithstanding the above, a private landowner or the City may commence land disturbing activity without an approved control plan where immediate action is necessary in order to respond to an existing or threatened emergency situation. When such emergency activity is undertaken, care will be taken to comply with the erosion and runoff control standards set forth in this Chapter to the fullest extent practicable under the circumstances. The Building Inspector or City Engineer shall be notified by the private landowner within three (3) hours after commencing such land disturbing activities under this Section.
- (d) **Minor Land Disturbing Activities - Content of Control Plan Statement.** Minor land disturbing activities are all those activities other than those deemed to be major land disturbing activities. For minor land disturbing activities, an erosion control plan (with simple map) shall be submitted to briefly describe the site and erosion controls (including the site development schedule). These documents will be used to meet the requirements of this Chapter.
- (e) **Review of Major and Minor Land Disturbing Control Plans.**
  - (1) **Major Land Disturbing Activities.** Within thirty (30) days of receipt of a completed control plan, the City Engineer and Building Inspector shall determine if the requirements of this Chapter are met. The applicant shall be informed, in writing, of the reasons for rejection or conditions of approval.
  - (2) **Minor Land Disturbing Activities.** Control plan statements for minor land disturbing activities shall be reviewed by the Building Inspector for compliance with this Chapter. The Building Inspector shall approve, reject or conditionally approve the plan within the same number of working days as required for issuance of a building permit, but in no event more than ten (10) working days after receipt of the completed control plan statement. If the control plan statement is rejected or

conditionally approved, the applicant shall be informed, in writing, of the reasons for rejection or conditions of approval.

(f) **Permits.**

- (1) ***Duration.*** Permits shall be valid for a period of one hundred eighty (180) days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Building Inspector or City Engineer may extend the period one or more times for up to an additional one hundred eighty (180) days. The Building Inspector may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this Chapter.
- (2) ***Permit Fees - Major Land Disturbing Activities.*** The application fee for a major land disturbing activity permit shall be set by the City Council from time to time. In addition to this fee, before any permit will be issued, the applicant shall pay the actual engineering fees or expenses incurred by the City in connection with review of the control plan and the engineering fees or expenses estimated to be incurred for on-site inspection during the project. These additional charges shall be determined by the Building Inspector and City Clerk.
- (3) ***Permit Fees - Minor Land Disturbing Activities.*** The application fee for a minor land disturbing activity permit shall be set by the City Council from time to time, except where a building permit fee is paid in connection with the same activity, then a lesser fee set by the City Council from time to time shall be paid in order to obtain the necessary land disturbing activity permit.

(g) **Permit Requirements - Major Land Disturbing Activity.** All Major Land Disturbing Activity Permits shall require the permittee to do at least the following:

- (1) The applicant shall provide the City, prior to issuance of the permit, an irrevocable letter of credit, certificate of deposit or certified check to the City in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of all required control measures as determined by the City Engineer and/or Building Inspector. The security deposited shall guarantee that all required control measures will be taken or installed according to the approved plan. The security shall remain in full force for the entire period of the permit unless released earlier by the City. The City shall have the right to draw upon the security for the purposes of obtaining compliance with the approved Control Plan as it deems necessary. If the erosion and runoff control requirements of this Chapter are included as part of plat or certified survey map conditions of approval, then security for performance of the control requirements may be included as part of the overall security required for installation of improvements under this Code of Ordinances.
- (2) Contact the Building Inspector upon completion of any control measures and at least two (2) business days prior to commencing any land disturbing activity.
- (3) Obtain written permission from the City Engineer or Building Inspector prior to modifying the Control Plan. They are authorized to permit only those modifications that comply with the terms of this Chapter.
- (4) Install all control measures as identified in the Control Plan.

- (5) Maintain all control measures as identified in the Control Plan.
  - (6) Repair any damage to adjoining surfaces and drainageways resulting from any land developing or disturbing activities on the permitted site.
  - (7) Inspect the control measures after each rain of 0.5 inches or more and make needed repairs immediately.
  - (8) Allow the Building Inspector, City Engineer, or other designated City officials to enter the site for the purpose of inspecting for compliance with the Control Plan or for performing any work necessary to bring the site into compliance with the Control Plan and this Chapter.
  - (9) Keep a copy of the approved Control Plan on site.
- (h) **Permit Requirements - Minor Land Disturbing Activity.** All Minor Land Disturbing Activity Permits shall require the permittee to:
- (1) Obtain permission in writing from the Building Inspector prior to modifying the Control Plan. They are authorized to permit only those modifications that comply with the terms of this Chapter.
  - (2) Install all control measures as identified in the approved Control Plan.
  - (3) Maintain all control measures as identified in the Control Plan.
  - (4) Repair any damage to adjoining surfaces and drainageways resulting from any land developing or disturbing activities on the permitted site.
  - (5) Inspect the control measures after each rain of 0.5 inches or more and make needed repairs immediately.
  - (6) Allow the Building Inspector, City Engineer, and other designated City officials to enter the site for the purpose of inspecting for compliance with the Control Plan or for performing any work necessary to bring the site into compliance with the Control Plan and this Chapter.

## **Section 15.2.10      Inspection.**

- (a) The City Engineer, Building Inspector or other designated City officials shall inspect all Major Land Disturbing activities in order to ensure compliance with the Control Plan and permit.
- (b) In the case of Minor Land Disturbing activities, the Building Inspector shall inspect sites in order to ensure compliance with the Control Plan and permit.
- (c) If the land disturbing or land development activities are being carried out without a valid permit, i.e., unauthorized, City inspection officials may enter the land in question pursuant to the special inspection warrant provisions of Sec. 66.0119, Wis. Stats.



## Section 15.2.11 Enforcement.

- (a) **Violations.** No land development or land disturbing activities within the scope of this Chapter may occur without full compliance with the provisions of this Chapter. Any person who violates or fails to comply with any provision of this Chapter is subject to the enforcement and penalty provisions contained herein.
- (b) **Enforcement.** This Chapter shall be enforced consistent with the policies and purposes underlying its adoption. The following enforcement actions, or any combination thereof, may be taken in case of a violation of this Chapter:
  - (1) **Stop Work Order.**
    - a. A stop work order may be issued by the City Engineer, Building Inspector, or their authorized agents, after an inspection if:
      - 1. Any land disturbing or land developing activity regulated under this Chapter is being undertaken without a permit;
      - 2. The Control Plan is not being implemented in a good faith manner;
      - 3. The conditions of the Permit are not being met.
    - b. Stop work orders may be retracted when compliance with the Chapter is obtained. The City Engineer, Common Council, Building Inspector or their designee has the authority to retract a stop work order for Major Land Disturbing activities; the Building Inspector, City Engineer and their designees, may retract stop work orders on Minor Land Disturbing activities.
  - (2) **Revocation of Permit.** Where a stop work order has been issued in order to obtain compliance with a Control Plan, the City may revoke the Permit if the permittee does not cease the illegal activity or obtain compliance with the Control Plan or Permit conditions within seventy-two (72) hours from issuance of the Stop Work Order.
  - (3) **City to Perform Work.** Seventy-two (72) hours after posting a stop work order, the City may issue a notice of intent to the permittee or landowner or land user of the City's intent to perform work necessary to comply with this Chapter. Upon receipt of permission from the landowner or pursuant to a court order, the City Engineer and/or other designated City officials or agents, as determined by the Common Council, may go on the land and commence the work. The costs of the work performed by the City, plus interest, shall be billed to the permittee or the landowner or may be recovered out of any security posted for such purpose. In the event a permittee or landowner otherwise fails to pay the amount due, the City Clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Sec. 66.0703, Wis. Stats.
  - (4) **Injunction and Other Judicial Remedies.** Compliance with the provisions of this Chapter may also be obtained by the Common Council authorizing the City Attorney to commence appropriate action to enjoin violations, compel compliance, or pursue other appropriate judicial relief.

- (5) ***Private Remedies Preserved.*** These enforcement provisions are not intended in any way to restrict or limit the rights of private parties to pursue whatever private legal remedies they may have available as a result of any erosion, sediment or water runoff.
- (c) **Penalties.** Any person violating any provision of this Chapter shall be subject to a forfeiture as provided in Section 1.1.7. Each day a violation exists shall constitute a separate offense. Before commencing a forfeiture action, the City shall issue a written warning to the person believed to be violating the Chapter, granting the person two (2) business days in which to remedy the violation and avoid the commencement of a forfeiture action.

## **Section 15.2.12 Appeals; Variances.**

- (a) **Appeal or Variance Requests.**
  - (1) ***By Applicant or Permittee.*** Any aggrieved applicant, permittee or land user may appeal any order, decision, determination or inaction of the City in administering or enforcing this Chapter, or may apply for a variance from the requirements of this Chapter. A Twenty-five Dollar (\$25.00) filing fee must accompany the appeal or variance request. Appeal or variance requests must be submitted in writing, state the grounds for the appeal or variance request, and be filed with the City Clerk. Publication and other associated costs will be in addition to this fee and paid by the applicant.
  - (2) ***Appeal By Citizens.***
    - a. An appeal of any order, decision, determination or inaction of the City in administering or enforcing this Chapter may be commenced upon the filing of a petition signed by twenty-five (25) adult residents of the City and payment of a Fifty Dollar (\$50.00) fee to cover the cost of the appeal.
    - b. The appeal must be filed with the City Clerk and shall state written grounds for the appeal. A copy of any citizen appeal shall be delivered or mailed to the applicant or permittee by the City Clerk within five (5) business days of its filing with the City. The filing of a citizen appeal, by itself, does not prohibit the commencement or continuation of any work or activity.
  - (3) ***Appeal Deadline.*** Appeals by applicants, permittees or citizens must be filed within forty-five (45) days of the order, decision, determination or inaction being appealed.
  - (4) ***Multiple Appeals Prohibited.*** Once an appeal has been filed on a matter, no other appeal on the same order, decision, determination or inaction will be allowed. The Board of Appeals shall consolidate appeals wherever possible to avoid a multiplicity of appeal proceedings and to hasten the final resolution of a matter. The Board of Appeals may allow additional parties to join a pending appeal where appropriate and where such addition will not delay the proceedings.

(b) **Authority.**

(1) ***Authority to Grant Variances.*** The Board of Appeals shall decide all variance requests in accordance with the provisions of this Code of Ordinances. The Board of Appeals shall only grant such variances from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Chapter is impracticable or otherwise unreasonable or demonstrated to be unnecessary. Such variances may be granted only when the Board of Appeals has been presented with satisfactory proof that the variance will achieve compliance results comparable to those set forth in this Chapter.

(2) ***Appeals.*** The Board of Appeals shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by City officials in administering this Chapter. The Board of Appeals shall use the rules, procedures, duties and powers authorized by City ordinance and statute for the Board of Appeals in hearing and deciding appeals and authorizing variances. The Board of Appeals shall hear and decide within thirty (30) days of receipt of the written request and payment of the appeal fee, unless an extension is agreed upon by the Appellant and Board of Appeals. The procedures utilized by the Board of Appeals shall be as prescribed in the City Zoning Code.

(c) **Enforcement Not Stayed.** The filing of an appeal or variance does not preclude the City from commencing or continuing any of the enforcement actions set forth herein or a forfeiture proceeding set forth in this Chapter unless the Common Council specifically agrees to stay such enforcements.

## Title 15 - Chapter 3

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# Fair Housing

### Section 15.3.1 Purpose.

Pursuant to Sec. 66.1011(2), Wis. Stats., the purpose of this Chapter is to prohibit discrimination in the sale or rental of housing in the City, solely on the basis of sex, race, color, physical condition, developmental disability as defined in Sec. 51.01(5), Wis. Stats., religion, national origin or ancestry, handicap as defined at 42 U.S.C. 3604(4), sexual orientation, family status or age. It is the policy of the City of Hillsboro to ensure equal opportunity to all persons to live in decent housing.

### Section 15.3.2 Definitions.

For the purpose of the Chapter:

- (a) **Real Property.** Includes buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.
- (b) **Discrimination or Discriminatory Housing Practice.** Any difference in treatment based upon sex, race, color, physical condition, developmental disability, religion, national origin or ancestry, handicap, sexual orientation, family status, or age.
- (c) **Person.** Includes individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.
- (d) **Owner.** Includes a lessee, sublessee, co-tenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing.
- (e) **Financial Institution.** Any person, as defined herein, engaged in the business of lending money or guaranteeing loans.
- (f) **Real Estate Broker and Real Estate Salesman.** Any individual, qualified by law, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents, or leases any housing including options thereupon, or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing; or who is engaged in the business of charging an advance fee or contracting

for collection of a fee in connection with a contract whereby he/she undertakes to promote the sale, purchase, rental or lease of any housing through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

- (g) **Housing or Dwelling.** Any building, mobile home or trailer, structure, or portion thereof which is occupied as, or designed, or intended for occupancy, as a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction of location thereon of any such building, mobile home or trailer, structure, or portion thereof or any real property, as defined herein, used or intended to be used for any of the purposes set forth in this subsection.
- (h) **Mortgage Broker.** An individual who is engaged in or who performs the business or services of a mortgage broker as the same are defined by Wisconsin Statutes.
- (i) **Open Market.** The market which is informed of the availability for sale, purchase, rental or lease of any housing, whether informed through a real estate broker or by advertising by publication, signs, or by any other advertising methods directed to the public or any portion thereof; indicating that the property is available for sale, purchase, rental or lease.

### **Section 15.3.3 Unlawful Practices.**

In connection with any of the transactions set forth in this Section which affect any housing on the open market, or in connection with any public sale, purchase, rental or lease of any housing, it shall be unlawful in the City, for any person, including but not limited to an owner, financial institution, real estate broker or real estate salesman, or any representative of the above, to discriminate against any person because of sex, race, color, physical condition, developmental disability, religion, national origin or ancestry or handicap, sexual orientation, family status, or age and in the process to:

- (a) Refuse to sell, purchase, rent, or lease or deny to or withhold any housing from a person; or
- (b) Differentiate against a person in the terms, conditions or privileges of the sale, purchase, rental or lease of any housing, or in the furnishing of facilities or services in connection therewith; or
- (c) Refuse to receive or transmit a bona fide offer to sell, purchase, rent, or lease any housing from or to a person; or
- (d) Refuse to negotiate for the sale, purchase, rental, or lease of any housing to a person; or
- (e) Represent to a person that any housing is not available for inspection, sale, purchase, rental or lease when in fact, it is so available, or to refuse to permit a person to inspect any housing; or
- (f) Make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy or to sign or to use a form of application for the sale, purchase, rental, lease or

- financing of any housing, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing; or
- (g) Offer, solicit, accept or use a listing of any housing for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease or in the furnishing of facilities or services in connection therewith; or
  - (h) For profit induce directly, or attempt to induce directly or indirectly the sale, purchase, rental or lease, or the listing for any of the above, of any housing by representing that the presence or anticipated presence of particular types of persons will or may result in either:
    - (1) The lowering of property values in the area, or
    - (2) An increase in criminal or antisocial behavior in the area, or
    - (3) A decline in the quality of schools serving the area.
  - (i) If the person accused of unlawful activity is a bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part, of the making of commercial real estate loans, deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against that person in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance; or
  - (j) Deny any qualified person access to or membership or participation in any multiple-listing service, real estate broker's organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against that person in their terms or conditions of such access, membership, or participation; or
  - (k) Requiring information concerning sex, race, color, physical condition, developmental disability, religion, national origin or ancestry, handicap, sexual orientation, family status or age.

## **Section 15.3.4 Exemptions.**

This Chapter shall not apply to:

- (a) A religious organization, association, or society or any nonprofit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such a religion is restricted on account of race, color or national origin.
- (b) A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members.

- (c) Any single-family house or duplex sold or rented by an owner, provided, that such private individual owner does not own more than three (3) such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this Subsection shall apply only with respect to one such sale within any twenty-four (24) month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or served on his/her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) single-family houses at any time; provided further, the sale or rental of any such single-family house shall be exempt from the prohibitions of this Chapter only if such house is sold or rented:
- (1) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman of such facilities or dwelling, or of any employee or agent of any such broker, salesman, or person; and
  - (2) Without the publication, posting or mailing, after notice, of any advertisement of written notice in violation of the provisions of 42 United States Code Section 3604(c); but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.
- (d) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families independently of each other, if the owner actually maintains and occupies one of such living quarters as his/her residence.

### **Section 15.3.5 Procedure.**

Any person aggrieved by an unlawful practice prohibited by this Chapter may file a complaint with the City Clerk within thirty (30) days after the aggrieved person becomes aware of the alleged unlawful practice, and in no event more than sixty (60) days after the alleged unlawful practice occurred. The Clerk shall investigate each complaint and attempt to resolve each complaint. Failure to achieve a resolution acceptable to both parties in compliance with this Chapter shall cause the Clerk to forward the complaint and his/her findings to appropriate County, State and Federal officials and advise the person aggrieved of Sec. 106.50, Wis. Stats.

### **Section 15.3.6 Other Remedies.**

Nothing herein contained shall prevent any person from exercising any right or seeking any remedy to which he/she might otherwise be entitled or from filing a complaint with any appropriate governmental agency.

### **Section 15.3.7 Penalties.**

Any person violating any provision of this Chapter shall, upon conviction of a first offense, be punished by forfeiture not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each violation thereof. For the second and each subsequent violation the forfeiture shall be between Five Hundred Dollars (\$500.00) and Two Thousand Dollars (\$2,000.00).

### **Section 15.3.8 Construction of Multi-Family Dwellings.**

The construction of multi family dwellings consisting of four (4) or more units shall conform with the design requirements specified at 42 U.S.C. 3605(f)(3)(c).

### **Section 15.3.9 Certain Acts Not Prohibited.**

With respect to rental of housing, nothing contained herein shall prevent landlords from using references, security deposits, or credit checks or making decisions whether to rent and properly care for and make repairs to the premises.



# Title 15 - Chapter 4

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## Minimum Housing Code

### Section 15.4.1 Title.

This Chapter shall be known as the City of Hillsboro Minimum Housing Code.

### Section 15.4.2 Intent and Purpose.

- (a) This Chapter is adopted for the purpose of preserving and promoting the public health, safety, comfort, convenience, prosperity, and general welfare of the people of the City and environs. This includes, among others, physical, aesthetic, and property values.
- (b) It is recognized that there may now be or may, in the future, be residential buildings, structures, yards or vacant areas, and combinations thereof which are so dilapidated, unsafe, dangerous, unhygienic, overcrowded, inadequately maintained or lacking in basic equipment or facilities, light, ventilation, and heating so as to constitute a menace to the health, safety, and general welfare of the people. The establishment and enforcement of minimum housing and property maintenance standards is necessary to preserve and promote the private and public interest.

### Section 15.4.3 Rules and Definitions.

- (a) **Rules.** In the construction of this Chapter, the rules and definitions contained in this Section shall be observed and applied, except when the context clearly indicates otherwise:
  - (1) Words used in the present tense shall include the future.
  - (2) Words used in the singular number shall include the plural number, and the plural the singular.
  - (3) The word "shall" is mandatory and not discretionary.
  - (4) The word "may" is permissive.
  - (5) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (b) **Definitions.** The following definitions shall be applicable in this Chapter:

- (1) **Adequate.** Adequate as determined by the Building Inspector under the regulations of this Chapter or adequate as determined by an authority designated by law or this Code of Ordinances. "Adequately" shall mean the same as adequate.
- (2) **Apartment.** One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities arranged for use by one (1) family.
- (3) **Approved.** Approved by the Building Inspector under the regulations of this Chapter or approved by an authority designated by law, this Chapter or this Code of Ordinances.
- (4) **Attractive Appearance.** An appearance which is in accordance with generally accepted professional practices for new construction within the City and which is not likely to adversely affect the values of abutting or neighborhood properties, or of the principal property.
- (5) **Basement.** A portion of a building located partly or wholly underground and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
- (6) **Boarding House.** See "Lodging House" and "Lodging Room."
- (7) **Building.** A combination of material to form a construction that is safe and stable and adapted to permanent or continuous occupancy for assembly, business, educational, high hazard, industrial, institutional, mercantile, residential, or a storage purpose; the term "building" shall be construed as if followed by the words "or portion thereof." For the purpose of this Chapter, each portion of a building completely separated from other portions by an unpierced fire wall shall be considered as a separate building.
- (8) **Capacity in Persons.** The "capacity in persons" of a building is the maximum number of persons that can occupy such building, as determined by the required floor space per person as established in this Chapter.
- (9) **Compliance Inspection.** An inspection performed in conjunction with a lawful order of the Common Council, City Clerk or Building Inspector for the purpose of certifying the fulfillment of an official requirement listed in the order.
- (10) **Dwelling.** A place of abode, a residence, or a house for use by one (1) or more persons, excluding hotels or motels.
- (11) **Dwelling Unit.** One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities arranged for use by one (1) family.
- (12) **Extermination.** The control or elimination of infestation by eliminating harboring places and removing or making inaccessible materials that may serve as food, and by poisoning, spraying, trapping, fumigation by a licensed fumigator or any other effective elimination procedure.
- (13) **Family.** An individual, or two (2) or more persons related by blood, marriage, or legal adoption, living together as a single housekeeping unit in a dwelling unit, including foster children, and not more than two (2) roomers. For the purpose of this Subsection, "children" means natural children, or a ward as determined in a legal guardianship proceeding. Up to two (2) personal attendants who provide services for family members or roomers who, because of advanced age or physical

- or mental disability, need assistance with activities of daily living, shall be considered part of the "family." Such services may include personal care, housekeeping, meal preparation, laundry or companionship.
- (14) **Friable Material.** Any material applied on ceilings, walls, structural members, piping, duct work, or any other part of a building which when dry may be crumbled, pulverized, or reduced to powder by hand pressure. The term includes non-friable material after such previously non-friable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.
  - (15) **Good Working Condition.** Capable of performing the task for which it was designed and in the manner intended by this Chapter.
  - (16) **Habitable Space.** One (1) or more rooms in a dwelling used primarily for sleeping, living, or dining purposes.
  - (17) **Impervious to Water.** Constructed of concrete, cement block, terrazzo, brick, tile, or other material approved by the Building Inspector, and having tight-fitting joints.
  - (18) **Infestation.** The sustained presence of household pests, vermin, or rodents.
  - (19) **Living Room.** A room used primarily for living, dining, or cooking purposes.
  - (20) **Lodging House.** A dwelling containing lodging rooms that will accommodate five (5) or more persons not members of a family.
  - (21) **Lodging Room.** A portion of a dwelling used primarily for sleeping and living purposes, excluding cooking facilities.
  - (22) **Mixed Occupancy.** Occupancy of a building in part for residential use and in part for some other use not accessory thereto.
  - (23) **Occupant.** One who occupies or has actual possession of usable space.
  - (24) **Operator.** Any person who has charge or control of a building or part thereof in which dwelling units or lodging rooms are located or let.
  - (25) **Owner.** Every person, firm, partnership, or any individual member thereof, corporation, business organization of any kind, the state, the county, the City, any sewer district, drainage district, and any other public or quasi-public corporation having vested interest in the property under consideration and shall include the representative, officer, agent, or other person having the ownership, control, custody, or management of any building. "Owner" does not include any person whose legal or equitable interest in the building is a security interest derived solely from the extension of credit to permit construction or remodeling of the dwelling or purchase of the dwelling by a third party.
  - (26) **Person.** A "person" shall mean and include any individual, firm, corporation, association, or partnership.
  - (27) **Properly.** As deemed proper by the Building Inspector under the regulations of this Chapter or deemed proper by an authority designated by law or this Chapter.
  - (28) **Provided.** Furnished, supplied, paid for or under control of the owner.
  - (29) **Residential Building.** A building which is arranged, designed, used, or intended to be used for residential occupancy by one (1) or more families or lodgers, and which includes, but is not limited to, the following types:

- a. Single-family dwellings.
- b. Two (2) family dwellings.
- c. Multiple-family dwellings (including apartment hotels).
- d. Lodging houses.
- e. Fraternity and sorority houses.

(For the purpose of this Chapter, any building containing any of the above uses together with other uses shall be considered a residential building.)

- (30) **Room.** A partitioned part of the inside of a building. For the purpose of this definition, partition shall mean something that divides interior space, especially an interior dividing wall. A wall is one of the sides of a room or building connecting floor and ceiling and may also include anything which encloses or separates space. A partition or wall which intrudes into the space by more than one-third (1/3) of the least dimension of an existing room may be regarded as creating an additional separate room. The partitioned space shall be considered as a room if privacy is implied; light and ventilation are affected; or a bedroom through a bedroom, bathroom through a bedroom or bedroom through a bathroom situation is created.
- (31) **Rooming House.** See "Lodging House" and "Lodging Room."
- (32) **Sleeping Room.** A room used for sleeping purposes.
- (33) **Structure.** Anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground.
- (34) **Supplied.** Paid for, furnished, or provided by or under control of the owner or operator.

## **Section 15.4.4 Minimum Standards for Basic Equipment, Lighting, Ventilation, Heating and Electrical Service.**

- (a) **Purpose.** The purpose of this Section is to establish minimum standards for basic equipment, lighting, ventilation, and electrical services for all residential buildings and parts thereof and to obtain the public and private benefits accruing from the provision of such services. A suitable environment for safe and healthy living is encouraged by adequate water and sanitary facilities, proper storage, and disposal of garbage, recyclables and other refuse, safe means of egress, provision of light, air, heat, and electrical service.
- (b) **Minimum Standards.** No person shall occupy as owner or let to another for occupancy any space in a residential building for the purpose of living, sleeping, cooking, or eating therein which does not comply with the following requirements:
- (1) **Basic Plumbing Requirements.** Every dwelling unit shall contain a kitchen sink, a flush water closet, a lavatory basin, and a bathtub or shower, all in good working condition and properly connected to hot and cold water lines and to an approved

water and sewer system. The flush water closet, lavatory basin, and bathtub or shower shall be contained within a separate room. Water pressure shall be available at all fixtures as specified in COMM 82.40, Wis. Adm. Code.

- (2) **Water Heating Facilities.** Every residential building shall have supplied water heating facilities which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water lines required hereunder and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at any required kitchen sink, lavatory basin, bathtub, or shower at a temperature of not less than one hundred ten (110) degrees Fahrenheit.
- (3) **Refuse Storage.** Each resident in every residential building shall be responsible for supplying such building with garbage, refuse and recyclable materials, storage facilities, the type and location of which is in compliance with City regulations.
- (4) **Egress.** Every dwelling unit and lodging room shall have direct access to at least two (2) accessible unobstructed means of egress leading to a safe and open public street, alley, or court connected to a street. Exterior stairways or exit platforms, or a combination thereof, will be permitted as second exits, provided the platform or stairways terminate at a point not more than ten (10) feet above the grade directly below the lowest platform. All stairs shall terminate at grade or a platform. Platforms shall have a minimum area of fourteen (14) square feet with a minimum dimension of three (3) feet. All stairways and platforms shall be protected with handrails and guardrails as specified in Sections COMM 21.04(2), COMM 70.31, and COMM 90.08, Wis. Adm. Code. Existing variances to the height limitations specified above may be approved by the Board of Appeals, provided the platforms or stairs are maintained in a sound structural condition.
- (5) **Plumbing.** Each lodging house shall provide at least one (1) flush water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition for each seven (7) persons or fraction thereof residing therein, including members of the operator's family wherever they share the use of said facilities, except that the required number of bathtubs or showers may be reduced by the Board of Appeals for lodging houses utilizing gang bathrooms containing multiple bathtubs or showers. All such facilities shall be located on the floor occupied by persons sharing such facilities or the floor directly above or below and shall be accessible from a common hall or passageway. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.
- (6) **Windows and Ventilation.**
  - a. Every living, sleeping, kitchen or bathroom shall have available natural light and ventilation complying with Sections COMM 21.05, Wis. Adm. Code, as dictated by the occupancy of the building. Existing light and ventilation conditions which do not comply with COMM Codes may remain in use with the granting of a variance by the Board of Appeals.

- b. Exhaust ventilation shall be installed in all toilet rooms, except those having only one (1) fixture [water closet or one (1) urinal] and in which the window area is greater than four (4) square feet and more than two (2) square feet is openable directly to the exterior of the building. The volume of air exhausted shall not be less than two (2) cubic feet per minute per square foot of floor area.
  - c. All doors and windows required for ventilation shall be protected with insect screen equivalent to not less than sixteen (16) wire mesh installed to prevent the entrance of flies, mosquitoes and other insects, to be annually installed during May before June 1 and maintained until storm windows are installed in autumn.
  - d. All exterior door and windows shall have storm windows or storm doors installed or maintained to prevent excessive drafts and heat loss no earlier than October 15th, but no later than November 15th annually.
  - e. Existing habitable rooms without openable windows shall be provided with a mechanical ventilation system producing one (1) air change per hour. All required exhaust vents shall terminate outside the structure.
- (7) **Electrical.** Every dwelling unit and all public and common areas in multiple dwellings shall be supplied with electrical service, outlets, and fixtures which shall be properly installed, shall be maintained in good and safe working conditions, and shall be connected to a source of electric power in a manner prescribed by the Wisconsin Electrical Code (COMM 16 and PSC 114, Wis. Adm. Code). The minimum capacity of such electrical services and the minimum number of outlets and fixtures shall be as listed below. (For the purposes of this Section, "electrical service" shall mean: "The conductors and equipment for delivering electrical energy from the supply system to the wiring system of the premises or the unit served.") The electrical service shall be of sufficient size to handle the load connected to it. The branch circuits shall be protected by S-type or equivalent safety type, tamper-proof fuses, not to exceed the ampacity of the smallest wire size in the circuit:
- a. Every dwelling unit or room shall have electric service capable of providing at least three (3) watts per square foot of total floor area [air conditioners, ranges, space heaters and motor driven equipment one-eighth (1/8) hp. or over excluded.]
  - b. Every lavatory, bathroom, kitchen or kitchenette, dining room, laundry room and furnace room shall contain at least one (1) approved ceiling or wall type electric light fixture equipped with sufficient lamps or tubes to provide no less than five (5) foot candles at floor level at the center of the room. Where more than one (1) fixture is used or required, they shall be equally spaced as far as practicable. (A switched outlet may be substituted for the ceiling or wall fixture in the dining room.)
  - c. Convenience outlet receptacles shall be provided as follows: (measurements are at room perimeter and include doors and door-alcoves)

1. Living Room: One (1) per seventy-five (75) square feet or major fraction [minimum of two (2).]
  2. Dining Room: One (1) per seventy-five (75) square feet or major fraction [minimum of two (2).]
  3. Kitchen: One (1) per eight (8) feet or fraction of countertop and preparation area measured at rear (preparation area includes countertops, sinks, range tops, and all other similar areas at counter height.) Island type work areas require one for each eight (8) feet or less of length. Separate outlets shall be provided for refrigerators.
  4. Dining Areas in Kitchen: One (1) per seventy-five (75) square feet or major fraction.
  5. Bedroom: One (1) per seventy-five (75) square feet or major fraction [minimum of two (2).]
  6. Laundry: One (1) when laundry equipment is present.
  7. Bathrooms and Lavatories: One (1) [may be part of wall fixture if seventy-two (72.0) inches or less from floor].
  8. Other Habitable Rooms: Minimum of two (2).
- d. Fixed appliances exceeding one-eighth (1/8) hp. or three hundred (300) watts rating shall not be connected to general purpose branch circuits. Convenience outlets are to be located to prevent use of extension cords (NED 400-8).
  - e. All cords and temporary wiring not in compliance with NEC Article 400-A, and all exposed abandoned wiring, shall be removed immediately upon the direction of the Building Inspector or Fire Inspector.
  - f. Switches or equivalent devices for turning on one (1) light in each room or passageway shall be located so as to conveniently control the area to be lighted.
  - g. Public halls and stairways in multiple dwellings shall be adequately lighted by natural or electric light at all times so as to provide in all parts thereof at least two and one-half (2-1/2) foot candles of light at the tread or floor level. Halls and stairways in structures containing not more than three (3) dwelling units may be supplied with conveniently located switches, controlling the lighting system, which may be turned on when needed. Other occupancies require full time or automatic time-switched lighting. When dwelling unit doors open to the outside a minimum of two and one-half (2-1/2) foot candles of illumination at the locks are required. Required parking areas for more than three (3) cars shall be lighted to a minimum of one (1) foot candle on all surfaces.
  - h. When the service in an existing residential building is changed for any reason, the entire building electrical system shall be brought to the above minimum standards. The minimum replacement electrical service shall be one hundred (100) amps for the first two (2) dwelling units in a building and fifty (50) amps for each additional unit. Where electric heat and air

conditioner over twenty (20) amps are added or in place, additional capacity to cover this demand is required. All electrical work shall be done in accordance with the National Electrical Code.

(8) **Heating.**

- a. All habitable rooms shall be provided with a permanently connected heating system complying with the City ordinances.
- b. The heating system shall be maintained in a safe and efficient condition by a qualified person and a record kept at the premises showing the date of service and by whom. A minimum temperature of sixty-seven (67) degrees Fahrenheit shall be maintained in all habitable rooms when the outdoor temperature is above zero (0) degrees Fahrenheit, absent the wind-chill factor, and a minimum temperature of sixty (60) degrees Fahrenheit shall be maintained in all habitable rooms when the outdoor temperature is zero (0) degrees Fahrenheit or lower, absent the wind-chill factor. The outdoor temperature for the City shall be the temperature as reported by the National Oceanic and Atmospheric Administration and the reports thereof shall be admissible in evidence and conclusive as to temperature.
- c. The occupant of a room or an apartment may maintain a lesser temperature than is specified above as long as it does not affect the temperature in other habitable areas of the building.

(9) **Lighting.**

- a. Illumination shall be provided at all intersections of passageways, at all exits, and at the head, foot, and landings of every stairway in all buildings accommodating transients, three (3) or more apartments, and lodging houses. The illumination shall be provided during a period one (1) hour before sunset to one (1) hour after sunrise.
- b. Every residential building that will accommodate transients, three (3) or more families, or twenty (20) persons shall have lights at the emergency exit doors or other places as may be necessary to direct the occupant to the exit doorways. The lights shall be red and accompanied by a sign bearing the word "EXIT" in plain letters five (5) inches high, or a red illuminated translucent exit sign may be used.

(10) **Cooking Areas Restricted.** The owner or operator of every residential building shall not provide, use, or permit to be used and the occupant shall not provide, use, or permit to be used, in any room other than a kitchen, any equipment designed or intended to be used for cooking or preparation of meals.

(11) **Emergency Work Information.** Every owner of a multi-family dwelling shall make available to the occupants the names of two (2) or more persons that may be called to arrange for emergency work. The names with the telephone numbers shall be posted in a conspicuous place readily accessible to the occupants. The names with the telephone numbers shall be revised periodically to maintain accurate information at all times.



## Section 15.4.5      **Safe and Sanitary Maintenance of Property.**

- (a) **Purpose.** The purpose of this Section is to recognize the private and public benefits resulting from the safe, sanitary, and attractive maintenance of residential buildings, yards, or vacant areas. Attractive and well-maintained property will enhance the neighborhood and City and provide a suitable environment for increasing physical and monetary values.
- (b) **Maintenance Requirements.** Every owner or operator shall improve and maintain all property under his control to comply with the following minimum requirements:
  - (1) **Drainage.** All courts, yards, or other areas on the premises shall be properly graded to divert water away from the building. Adjacent ground surface shall be sloped away from the structure with a grading of at least one-half (1/2) inch per foot for a minimum of five (5) feet where possible or by other means such as eaves troughs and downspout extensions.
  - (2) **Weeds.** All exterior property areas shall be kept free from noxious weeds as required by this Code of Ordinances and the Wisconsin Statutes. Where required weed and grass cutting is not performed by the property owner, the Weed Commissioner shall perform said weed cutting and process the charge therefor as a special charge against the benefitted property.
  - (3) **Debris.** All exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, physical hazards, rodent harborage and infestation, and animal feces. All animal feces shall be removed within twenty-four (24) hours.
  - (4) **Fences, Walks, Parking Areas.** Fences, other minor construction, walks, driveways, parking areas, and similar paved areas shall be properly maintained in a safe, sanitary and substantial condition. Approved walks shall provide convenient all-weather access to buildings.
  - (5) **Exterior Surfaces.** Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking, or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. All paint or other preservative shall be applied in a workmanlike fashion.
  - (6) **Yard Areas.** Yard areas of real estate shall not be permitted to deteriorate or remain in a condition that is not in accord with the following: Yard areas shall be kept in a clean and sanitary condition, free from any accumulation of combustible or non-combustible materials, debris, or refuse. Yards shall not be used to store appliances, furnaces, hot water heaters, water softeners, or building material not used within ten (10) days, or any unsightly bulk items. Landscaping, plantings and other

decorative surface treatments, including common species of grass, shall be installed if necessary and maintained to present an attractive appearance in all court and yard areas. Lawns shall be maintained to a height in compliance with City ordinances. Plantings shall be maintained as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance and value of the property on which located, and thereby the appearance and value of the neighborhood and City. The City, after due notice to the property owner, will cause to be cut or trimmed nonconforming areas and place said cost as a special charge due against the property.

- (7) **General Requirements.**
  - a. Every interior floor, wall, and ceiling, including door and window assemblies, shall be kept clean and in good repair, and shall be capable of affording privacy. Any hazardous sagging or bulging shall be properly repaired to a level or plumb position. All surfaces shall be free from serious cracking, irregularities, and peeling paint. A waterproof and hard surface shall be provided in spaces subject to moisture. All surface repairs shall be completed to closely match the existing surface color and texture. Floor surfacing shall provide ease of maintenance and durability appropriate for the use of the room.
  - b. Every foundation, exterior wall, and floor and roof shall be reasonably weathertight, watertight, and rodentproof and shall be kept in proper repair and shall be capable of affording privacy. Any hazardous sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breaching shall be so constructed and maintained so as to insure that it safely and properly removes the products of combustion from the building.
  - c. Every gap allowing the accumulation of dirt or other objectionable matter in bathing, toilet, or food preparation areas shall be tightly sealed with an impervious and cleanable material.
- (8) **Stairs.** Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in proper condition and repair and shall present an attractive appearance. All interior and exterior stairs and steps and every appurtenance thereto shall comply with the requirements specified in Section COMM 21.04 Wis. Adm. Code, or Secs. 51.16, 51.161, 51.162 and 51.164, Wis. Stats., as dictated by the type of occupancy in the building.
- (9) **Plumbing Fixtures.** Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good working condition, free from defects, leaks, and obstructions.
- (10) **Bathrooms.** Every water closet compartment floor surface and bathroom floor surface shall be properly constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

- (11) ***Supplied Facilities.***
- a. Every supplied facility, piece of equipment, or utility shall be so constructed, installed, and maintained so that it will function in a proper working condition.
  - b. The owner of any dwelling or apartment in which a cooking stove and/or refrigerator are furnished for the use of the tenants as part of a rental agreement shall keep such cooking stove and/or refrigerator in good mechanical working condition.
  - c. It shall be the responsibility of the tenant to maintain supplied facilities in a clean and sanitary condition when contained within the tenant's dwelling unit.
- (12) ***Equipment Removal Restricted.*** No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this Chapter to be removed from or shut off from or discontinued for any occupied dwelling, dwelling unit, or lodging room let or occupied by, him/her, except for such temporary interruption as may be necessary while actual repairs are in process, or during temporary emergencies when discontinuance of service is approved by an authorized inspector.
- (13) ***Abandoned Fuel Oil Tanks.*** Abandoned fuel oil tanks shall be removed from the building.
- (14) ***Removal of Debris.***
- a. No person shall dispose of rocks, trees, stumps, waste building material, or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of any land in the City, except at approved disposal sites.
  - b. No land owner shall allow an accumulation of rocks, trees, stumps, waste building material or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of his/her land for a period of more than ten (10) days.
  - c. All vacant lands within the City shall be leveled off to permit the mowing of weeds as outlined within this Code. This includes the removal of stones, bottles, wires and other debris that will interfere with mowing operations.
  - d. All lands in the City shall be kept free of weeds and maintained so there is no detrimental influence to the public health, safety, comfort or general welfare of the immediate neighborhood or community.

## **Section 15.4.6      Quantity, Location, and Use of Space in Residential Buildings.**

- (a) **Purpose.** The purpose of this Section is to establish minimum standards for the quantity, location, and use of space in residential building units so as to preserve and promote the public interest. A suitable environment for safe, healthy, and desirable living can be

enhanced by providing adequate space and privacy for occupants of all residential buildings.

(b) **Size of Dwellings and Rooms.**

- (1) ***Detached Single-Family Dwellings.*** Every detached single-family dwelling other than a mobile home shall have at least five hundred (500) square feet of floor area on the first floor level.
- (2) ***Size of Rooms.***
  - a. **Apartments.** The floor area of an apartment shall provide not less than one hundred fifty (150) square feet of floor area for the first occupant and at least one hundred (100) additional square feet of floor area for each additional occupant.
  - b. **Lodging Rooms.** The floor area of a lodging room shall provide not less than seventy (70) square feet of floor area for one (1) occupant and fifty (50) square feet for each additional occupant.
- (3) ***Excluded Spaces.*** The space used as a laundry, workshop, furnace room, bathroom, storage room, closets, and common halls shall not be included as part of the space required in Subsections (b)(1) and (2) above.
- (4) ***Hallways.*** Access to all lodging and sleeping rooms shall be from a common hallway and not through bathrooms or other lodging and sleeping rooms.
- (5) ***Cellar Space.*** No cellar space shall be used as a sleeping room.
- (6) ***Basement Use as a Sleeping Area.*** No basement space shall be used for a sleeping room unless:
  - a. The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness.
  - b. The total window area in each room is equal to at least the minimum window area required in this Chapter. The required minimum window area must be located entirely above the grade of the ground adjoining such window area.
  - c. The total of openable window area in each room is equal to at least the minimum as required under this Chapter, except where there is supplied some other device affording adequate ventilation and approved by the Building Inspector.

## **Section 15.4.7      Fixing the Responsibility of Owners, Operators and Occupants.**

- (a) **Purpose.** The purpose of this Section is to fix the responsibility of owners, operators, and occupants of residential buildings.
- (b) **Responsibilities.** The responsibility of owners, operators, and occupants of residential buildings is as follows:

- (1) Every owner of a residential building containing two (2) or more dwelling units shall be responsible for maintaining in a clean, proper, and sanitary condition the shared or public areas of the residential building and premises thereof.
- (2) Every occupant of a residential building shall keep in a clean, proper, and sanitary condition that part of the residential building and premises thereof which he/she occupies and controls, except the operator of every lodging house shall be responsible for the sanitary maintenance of all walls, floors, ceilings, and every other part of the lodging house. Every occupant of a residential building shall dispose of all his refuse, recyclables, and garbage as required by this Code of Ordinances.
- (3) Every owner of a residential building shall be responsible for hanging, installation, and maintenance of all screens and double or storm doors and windows, whenever the same are required under provisions of this Code of Ordinances.
- (4) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises and every occupant of a dwelling unit in a residential building shall be responsible for such extermination whenever his/her dwelling unit is the only one infested. Notwithstanding the foregoing by failure of the owner to maintain a residential building in a reasonable condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units or lodging rooms in any residential building or in the shared or public parts of any residential building, extermination thereof shall be the responsibility of the owner.
- (5) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- (6) The owner or operator shall not occupy or let to another for occupancy any space in a residential building unless it is clean, sanitary, fit for human occupancy, complies with the requirements of this Chapter and compliance inspections/orders thereunder, and the occupancy is limited to the maximum permitted thereby.
- (7) Every owner of a lodging house shall make available to the occupants the names of two (2) or more persons that may be called to arrange for emergency work. The names with the telephone numbers shall be posted in a conspicuous place readily accessible to the occupants. The names with the telephone numbers shall be revised periodically to maintain accurate information at all times.
- (8) The operator of every lodging house shall change supplied linen and towels therein at least once each week and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary condition.

## **Section 15.4.8 Inspection.**

- (a) The Building Inspector is authorized and empowered to inspect all residential buildings within the City for the purpose of determining whether or not said residential buildings comply with the requirements of this Chapter. If any owner or occupant denies the Building Inspector entry into any residential building or portion thereof, the Building Inspector is authorized to obtain inspection warrants from an appropriate court and then enter and inspect said residential building pursuant to the authority of such warrant.
- (b) No owner of a residential building may deny the Building Inspector of the right to enter and inspect any portion thereof under the control of a tenant when the tenant has consented to said entry and inspection.

## **Section 15.4.9 Designation of Unfit Dwellings and Legal Procedure Therefor.**

The designation of dwellings or dwelling units as unfit for human habitation and the procedure for the condemnation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following procedures and guidelines:

- (a) Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Building Inspector:
  - (1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health, safety, or welfare of the occupants or of the public.
  - (2) One which lacks illumination, ventilation, heating, basic equipment, or sanitation facilities adequate to protect the health, safety, or welfare of the occupants or of the public.
  - (3) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health, safety, or welfare of the occupants or of the public.
  - (4) One which, because of its general condition, location or appearance, is a blighting influence or causes decreasing physical or monetary value of property in the neighborhood.
- (b) Any dwelling, dwelling unit, building or structure designated and placarded as unfit for human habitation and in need of repair by the Building Inspector shall be vacated within such a reasonable time as is ordered by the Building Inspector.
- (c) No building or structure or part thereof which has been designated and placarded as unfit for human habitation and in need of repairs or razing shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Building Inspector. The Building Inspector shall remove such placard whenever the defect or defects upon which the designation and placarding action were based have been eliminated.

- (d) No person shall deface or remove the placard from any building or structure, or part thereof, which has been condemned as unfit for human habitation and placarded as such.
- (e) Any building or structure or part thereof designated as unfit for human habitation and in need of repairs or razing by the Building Inspector, which in the opinion of the Building Inspector would be unreasonable to repair, shall be razed or removed upon legal written service of the order of Building Inspector. If the owner shall fail or refuse to comply with the order, the Building Inspector shall refer such violation to the City Attorney who will start any legal proceedings necessary to cause such building to be razed or removed as a violation of this Chapter.
- (f) Any building which has been vacant for more than thirty (30) days for any reason and has been damaged, illegally entered or vandalized shall be secured against entry. This shall include adequately boarding up doors, windows, and other openings in a workmanlike manner so as to prevent illegal entry, vandalism or damage.
  - (1) The building utilities, plumbing, electrical and heating systems in vacant buildings shall be maintained at all times in a safe condition or inactivated so as to prevent the possibility of damage to the structure by the failure of such utilities and so as to prevent hazardous and dangerous conditions.
  - (2) When any building has been damaged by fire or other cause and when hazardous or dangerous conditions exist and when such building cannot be secured by conventional locking or boarding up of windows and doors, such building shall be fenced off so as to prevent access and entry to the structure and the area immediately surrounding the structure within three (3) days of the damage by fire or other cause.

### **Section 15.4.10 Enforcement, Service of Notices and Orders and Hearings.**

- (a) Whenever the Building Inspector determines that there are reasonable grounds to believe that there has been a violation of any provision of this Chapter or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefor as hereinafter provided. Such notice shall:
  - (1) Be in writing.
  - (2) Include a statement of the reasons why it is being issued.
  - (3) Allow a reasonable time for the performance of any act it requires.
  - (4) Be served upon the owner or his agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent or upon such occupant, if a copy thereof is served upon him personally; or if a copy thereof is sent by registered mail to his last-known address; or if a copy thereof is posted in a conspicuous place in or about the dwelling or dwelling unit affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of this state.

- (5) The above notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Chapter and with rules and regulations adopted pursuant thereto.
- (b) Whenever there has been notice of a violation issued to the owner, the agent of any owner, or the occupant of property which is in violation of this Chapter, no further notice shall be necessary for any reoccurrence of the violation prior to the commencement of any forfeiture action or prior to seeking an injunction in a court of record.
- (c) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Chapter or of any rule or regulations adopted pursuant thereto may request and shall be granted a hearing on the matter before the Building Inspector, provided that such person shall file, in the office of the Building Inspector, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice was served. Upon receipt of such petition, the Building Inspector shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced no later than ten (10) days after the day on which the petition was filed. Upon application of the petitioner, the Building Inspector may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if, in his judgment, the petitioner has submitted a good and sufficient reason for such postponement.
- (d) Following such hearing, the Building Inspector shall sustain, modify, or withdraw the notice, depending upon his/her findings as to whether the provisions of this Chapter and of the rules and regulations adopted pursuant thereto have been complied with. If the Building Inspector sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this Chapter shall automatically become an order if a written petition for a hearing is not filed in the office of the Building Inspector within ten (10) days after such notice is served. Following a hearing in the case of any notice suspending any permit required for this Chapter or by any rule or regulation adopted pursuant thereto, when such notice has been sustained by the Building Inspector, the permit shall be deemed to have been revoked. Any such permit which has been suspended by a notice shall be deemed to be automatically revoked if a petition for hearing is not filed in the office of the Building Inspector within ten (10) days after such notice is served.
- (e) The proceedings at such hearing, including the findings and decision of the Building Inspector, shall be summarized, reduced to writing, and entered as a matter of public record. Such record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Building Inspector may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.
- (f) Whenever the Building Inspector finds that an emergency exists which requires immediate action to protect the public health, safety, or welfare, he/she may, without notice or hearing, issue an order reciting the existence of such an emergency and



requiring that such action be taken as he/she deems necessary to meet the emergency. Notwithstanding the other provisions of this Chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Building Inspector shall be afforded a hearing as soon as possible. After such hearing, depending upon his/her findings as to whether the provisions of this Chapter and of the rules and regulations adopted pursuant thereto have been complied with, the Building Inspector shall continue such order in effect, or modify it, or revoke it.

- (g) Determinations of the Building Inspector under this Section may be appealed to the Board of Appeals using the procedures prescribed in Title 13, Chapter 1 of this Code of Ordinances.

# Title 15 - Chapter 5

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## Commercial Property Exterior Maintenance Code

### Section 15.5.1 Title.

This Chapter shall be known as the City of Hillsboro Commercial Property Exterior Maintenance Code.

### Section 15.5.2 Intent and Purpose.

- (a) This Chapter is adopted for the purpose of preserving and promoting the public health, safety, comfort, convenience, prosperity, and general welfare of the people of the City and environs. This includes, among others, physical, aesthetic and monetary values.
- (b) It is recognized that there may now be or may, in the future, be commercial buildings, structures, yards, or vacant areas and combinations thereof which are so dilapidated, unsafe, dangerous, unhygienic, or inadequately maintained so as to constitute a menace to the health, safety, and general welfare of the people. The establishment and enforcement of minimum commercial property maintenance standards is necessary to preserve and promote the private and public interest.

### Section 15.5.3 Rules and Definitions.

- (a) **Rules.** In the construction of this Chapter, the rules and definitions contained in this Section shall be observed and applied except when the context clearly indicates otherwise:
  - (1) Words used in the present tense shall include the future.
  - (2) Words used in the singular number shall include the plural number, and the plural the singular.
  - (3) The word "shall" is mandatory and not discretionary.
  - (4) The word "may" is permissive.

- (5) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (b) **Definitions.** The definitions found in Section 15.4.3 shall be applicable in this Chapter.

## **Section 15.5.4 Safe, Sanitary, and Attractive Maintenance of Property.**

- (a) **Purpose.** The purpose of this Section is to recognize the private and public benefits resulting from the safe, sanitary, and attractive maintenance of commercial buildings, structures, yards, or vacant areas. Attractive and well-maintained property will enhance the neighborhood and City and provide a suitable environment for increasing physical and monetary values.
- (b) **Minimum Requirements.** Every owner or operator shall improve and maintain all property under their control to comply with the following minimum requirements:
  - (1) **Drainage.** All courts, yards, or other areas on the premises shall be properly graded to divert water away from any building or structure.
  - (2) **Weeds.** All exterior property areas shall be kept free from noxious weeds as required by this Code of Ordinances. Where weed cutting is required, the Weed Commissioner shall perform said weed cutting and process the charge therefor as a special assessment against the benefitted property.
  - (3) **Debris.** All exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, physical hazards, rodent harborage and infestation, and animal feces. All animal feces shall be removed within twenty-four (24) hours.
  - (4) **Fences, Walks, and Parking Areas.** Fences, other minor construction, walks, driveways, parking areas, and similar paved areas shall be properly maintained in a safe, sanitary, and substantial condition. Approved walks shall provide all-weather access to buildings or structures.
  - (5) **Exterior Surfaces.** Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. All paint or other preservative shall be applied in a workmanlike fashion.
  - (6) **Yard Areas.** Yard areas of real estate shall not be permitted to deteriorate or remain in a condition that is not in accord with the following: Yard areas shall be kept in a clean and sanitary condition, free from any accumulation of combustible or non-combustible materials (which are not used as an integral part of the authorized business carried out on the premises), debris, or refuse. Unless in a properly zoned

district and screened by a visual barrier at least five (5) feet high, yards shall not be used to store appliances, furnaces, hot water heaters, water softeners, or building material not used within five (5) days, or any unsightly bulk items, unless these items are raw materials used in the business carried out on the premises.

- (7) **General Requirements.** Every foundation, exterior wall, and roof shall be reasonably weathertight, watertight, and rodentproof and shall be kept in proper repair and shall be capable of affording privacy. Any hazardous sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breeching shall be so constructed and maintained so as to insure that it safely and properly removes the products of combustion from the building.
- (8) **Windows and Doors.** Every window, exterior door, and basement hatchway shall be reasonably weathertight, watertight, and rodentproof and kept in proper repair. All door and window hardware shall be installed and maintained in proper working condition.
- (9) **Outside Stairs and Porches.** Every outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in proper condition and repair and shall present an attractive appearance. All exterior stairs and steps and every appurtenance thereto shall comply with the requirements specified in the Wisconsin Administrative Code.
- (10) **Removal of Debris.**
  - a. No person shall dispose of rocks, trees, stumps, waste building material, or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of any land in the City, except at approved disposal sites.
  - b. No land owner shall allow an accumulation of rocks, trees, stumps, waste building material or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of his land for a period of more than ten (10) days.
  - c. All land filling operations shall be leveled off to permit the mowing of the weeds between June 1 and November 1. This includes the removal of stones, bottles, wire, and other debris that will interfere with mowing operations.

## **Section 15.5.5 Vacant Building Permit and Inspection.**

- (a) **Definitions.** The following definitions shall apply in this Section:
  - (1) **Accessory Building/Structure.** A detached building or structure on the same lot, with and of a nature customarily incidental and subordinate to the principle building or structure or use of the land; i.e., child's playhouse, garden house, greenhouse, garage, carport, shed, fence, or retaining wall.

- (2) **Building.** Any Structure used or intended for supporting or sheltering any use or occupancy.
  - (3) **Exterior Premises.** The open space on the premises or the portion of the premises upon which there is not a structure.
  - (4) **Good Repair.** “Good Repair” shall mean free from blighting and hazardous conditions, clean and sanitary, and in safe condition.
  - (5) **Imminent Hazard.** A condition which could cause serious or life-threatening injury or death at any time.
  - (6) **Mixed Occupancy.** Occupancy of a structure in part for residential use and in part for some other use not accessory thereto.
  - (7) **Occupant.** An occupant is any person who leases or lawfully resides in a building or premises, or a portion of a building or premises.
  - (8) **Owner.** Any person having a title to the premises, as recorded in the Office of the Register of Deeds for Vernon County, or as recorded on the City of Hillsboro assessment rolls.
  - (9) **Partially Vacant.** A multi-storied building or structure that has one (1) or more stories vacant.
  - (10) **Responsible Person.** A natural person who is the owner, operator or manager of any building, structure or premises and is responsible for the property’s maintenance and management.
  - (11) **Rubbish.** Combustible and noncombustible waste materials, except garbage. The term shall include the residue from the burning of wood, coal, coke, and other combustible materials, papers, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.
  - (12) **Structure.** Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.
  - (13) **Vacant.** A building or structure shall be deemed to be vacant if no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s), tenant-occupant(s), owner-occupant(s) or tenant(s) on a permanent, non-transient basis.
  - (14) **Waste.** “Waste” shall mean garbage, ashes, rubbish or trash.
  - (15) **Weeds.** “Weeds” or “Noxious Weeds” shall mean Canadian thistle, leafy spurge, field bindweed (Creeping Jenny), Ambrosia trifida (Giant Ragweed), Arubuosia trifida (Common Ragweed), and such other weeds as are defined in “Weeds of the North Central States, North Central Regional Research Publication No. 281, Bulletin 772”, published by the University of Illinois at Urbana-Champaign, College of Agriculture, Agriculture Experiment Station.
- (b) **Applicability.**
- (1) **General.** The provisions of this Section shall apply to the manufacturing, commercial, institutional and mixed occupancy buildings vacant for one hundred eighty (180) consecutive days, and all manufacturing, commercial and mixed occupancy buildings, which have been partially vacant for one hundred eighty

- (180). All buildings with a valid City of Hillsboro Building or Raze Permit shall be exempt from the provisions of this Section.
- (2) **Conflict.** In any case where a provision of this Section is found to be in conflict with a provision of the Zoning Code or any other provisions of the Code of General Ordinances, the provision which established the higher standard for the protection of the public health, safety, and welfare shall prevail.
  - (3) **Application of Other Ordinances.** Nothing contained herein shall be deemed to authorize the use of a structure or premises contrary to any other provision of the Code of Ordinances or the Zoning Code. Repairs, additions or alterations to a structure shall be done in accordance with the procedures and provisions of State law, Chapter 15 of this Code of Ordinances and NFPA 70 (National Electric Code). Nothing in this Section shall be construed to cancel, modify or set aside any provision of the Zoning Code or Building Code.
  - (4) **Existing Remedies.** The provisions in this Section shall not be construed to abolish or impair existing remedies of the City, or its officers or agencies, under State laws or this Code of Ordinances, including the Zoning Code, relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary, or the abatement of public nuisances.
  - (5) **Historic Buildings.** The provisions of this Section shall apply to structures designated by the Federal Government, State or City as historic buildings. Any work to said structure shall also comply with COMM Chapters 72 and 75-79 of the Wisconsin Administrative Code.
- (c) **Vacant Building Permit Required.**
- (1) **Vacant Building Permit.** The owner of any building or structure to which this Section applies shall obtain a Vacant Building Permit. The owner must complete a Vacant Building Registration Form and submit the form to the Zoning Administrator. The owner must maintain a valid Vacant Building Permit for any building or structure to which this Section applies and must continue to renew the permit as long as the building or structure remains subject to this Section.
  - (2) **Vacant Building Permit Process.** The applicant must submit a Vacant Building Registration Form, within thirty (30) days of the date the building becomes vacant, which shall be provided by the Zoning Administrator. Applicants shall disclose all measures to be taken to ensure that the building will be kept weathertight, secure from trespassers, and safe for entry by police officers and firefighters in times of exigent circumstances or emergency. The application shall include, but not be limited to, the following:
    - a. Contact information for each owner. If owner does not reside within the State, the owner shall provide the name, address and telephone number of an agent who is available for service of process within the State of Wisconsin. If the owner is other than a natural person or persons, the following shall apply, as appropriate:
      1. If the owner is a corporation, limited liability company, limited or general partnership, the registration statement shall provide the

- names and residence addresses of all responsible persons and the name and business address of the registered agent for service of process appointed pursuant to Wisconsin State Statutes.
2. If an estate, the name and business address of the personal representative of the estate.
  3. If a trust, the names and addresses of the trustee or trustees.
  4. If a partnership, the names and residence address of the partner or partners.
- b. Contact information for a responsible person, as defined by this Section, who is a natural person who may be contacted at all times for inspection, emergency repairs, or maintenance, and who can respond to the vacant building or structure when requested.
  - c. Any rehabilitation or demolition plans for the building or structure.
  - d. An acknowledgement by the owner that grass and weeds shall not exceed a height of ten (10") inches and a plan for how the owner will comply with this requirement.
  - e. An acknowledgement by the owner that snow and ice shall be removed from the public right-of-way within twenty-four (24) hours of snowfall and a plan for how the owner will comply with this requirement.
  - f. An acknowledgement by the applicant that the owner is aware of and understands the Vacant Building Maintenance Standards in this Section.
- (3) **Vacant Building Permit Renewal.** Any applicant seeking to renew a permit must submit an updated Vacant Building Registration Form and shall pay the required fee.
- (d) **Vacant Building Permit Requirements.** A permit may only be issued or renewed if the building or structure which is subject to the application satisfies the following requirements:
- (1) **Code Compliant.** All buildings or structures subject to the application shall comply with all building, fire, property maintenance, zoning and other applicable sections of the Code of Ordinances, and shall apply for all necessary building, fire prevention and zoning permits upon application for a Vacant Building Permit.
  - (2) **Vacant Building Maintenance Standards.** All buildings or structures subject to the application shall adequately protect the building from intrusion by trespassers and from deterioration by the weather and shall comply with the following Vacant Building Maintenance Standards:
    - a. **Building Openings.** Doors, windows, areaways, and other openings shall be weathertight and secured against entry by birds, vermin and trespassers. Missing or broken glass in doors, windows and other such openings shall be repaired / replaced with glass. No building opening shall be boarded. All first floor or ground level windows, doors and openings shall be free of any posters, paper or fabric coverings.
    - b. **Waste Removal.** All waste, debris, rubbish, and garbage shall be removed from the interior of the building or structure and surrounding premises.

- c. **Roofs.** The roof and flashings shall be sound and tight, not admit moisture, or have defects which might admit moisture, rain or roofing drainage and shall allow for sufficient drainage to prevent dampness or deterioration in the interior of the building.
- d. **Drainage.** The building storm drainage system shall be functional and installed in an approved manner, and allow discharge in an approved manner.
- e. **Building Structure.** The building shall be maintained in good repair and structurally sound. The building shall be maintained in a sanitary manner and in a manner that does not pose a threat to the public health, safety and welfare.
- f. **Structural Members.** The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
- g. **Foundation Walls.** The foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the public health, safety and welfare, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and be animal and rat-proof.
- h. **Exterior Walls.** The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.
- i. **Decorative Features.** The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.
- j. **Overhanging Extensions.** All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe, and sound. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.
- k. **Chimneys and Towers.** Chimneys, cooling towers, smokestacks and similar appurtenances shall be structurally safe and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.
- l. **Walkways.** Public walkways shall be in good repair, shall be safe for pedestrian travel, and shall be free of snow and ice. Snow and ice removal shall be completed within twenty-four (24) hours of a snowfall.
- m. **Accessory Building/Structures.** Accessory buildings / structures such as garages, sheds and fences shall be free from safety, health and fire hazards; and, shall comply with these Vacant Building Maintenance Standards.



- n. **Exterior Premises.** The surrounding premises upon which the structure or building is located shall be clean, safe, sanitary, free from waste, rubbish, garbage, excessive vegetation, shall not be used for exterior storage, and shall not pose a threat to public health, welfare or safety.
- (e) **Issuance of Vacant Building Permit.** The Code Official shall issue or renew a Vacant Building Permit upon being satisfied that the building has been inspected and is in compliance with all applicable provisions of this Code and the Vacant Building Maintenance Standards set forth in this Section, and is adequately protected from intrusion by trespassers and from deterioration by the weather. This Permit shall be effective for a period of three hundred sixty (360) days from the date of issuance or renewal.
- (f) **Vacant Building Permit Conditions.** All permits issued are subject to all other applicable conditions of the Code of Ordinances and the following additional conditions:
  - (1) **Consent to Entry.** All applicants and owners holding a permit consent to the entry of duly authorized officials of the City at all reasonable hours and upon reasonable notice for the purpose of inspection. Refusal to consent to entry shall be a violation of this Section.
  - (2) **Consent to Emergency Inspections / Emergency Repairs.** All applicants and owners holding a permit consent to the entry of duly authorized officials of the City if such official has reason to believe than an emergency situation exists with respect to the building or structure that tends to create an imminent hazard to health, welfare or safety of the general public, in the discretion of such official, then such official may enter the building to inspect the premises, without notifying the responsible party or obtaining a warrant. If such official finds an emergency situation exists in fact, which presents an imminent hazard to the health, welfare or safety of the general public, then such official may cause any reasonable action, including the employment of necessary labor and materials, to perform emergency repairs to alleviate the hazard. Costs incurred in the performance of emergency repairs may be paid by the City and if so paid, the City may impose a special charge against the property to recover the costs. A One Hundred Dollar (\$100.00) inspection and administrative fee shall be added to the costs and imposed as a special charge against the benefitted property.
  - (3) **Cooperation by Owner or Responsible Person.** All owners holding a permit or responsible persons identified in a permit application shall cooperate with and facilitate inspections of the premises at a reasonable times pursuant to reasonable notice to determine compliance with the requirements of this Section. Obstructing a duly authorized inspection, including refusing entry or access to portions of the building subject to the permit, shall be a violation of this Section. The owner shall notify the Zoning Administrator within thirty (30) business days of any changes to the contact information of the owner or responsible person.
  - (4) **Continued Compliance.** For the Vacant Building Permit to remain valid, the building or structure subject to the permit shall continue to comply with all the requirements of the Vacant Building Maintenance Standards.

(g) **Enforcement.**

- (1) **Authorized Officials.** The Zoning Administrator or the Building Inspector shall have the authority to enforce the provisions of this Section and to exercise the powers and duties specified in this Section and may delegate their authority to appropriate City personnel as his/her designee.
- (2) **Right of Entry.** An authorized official has the right to enter buildings, structures, or premises subject to this Section at reasonable times, with the express or implied consent of the owner, responsible person, or occupant, to inspect in accordance with the City's policy and procedure for entering onto private property to conduct administrative interior and exterior inspections for Code administration and enforcement. If entry is refused, the official may apply for a special inspection warrant pursuant to sec. 66.0119, Wis. Stats.
- (3) **Inspections.** An authorized official may inspect the premises and structures to determine compliance with this Section at their discretion. All reports of such inspections shall be in writing, signed or initialed and dated. An authorized official may engage any expert opinion as deemed necessary to report upon unusual technical issues that arise in the course of their duties, in accordance with City policy. An authorized official, or his/her designee(s), may conduct inspections made pursuant to the provisions of this Section in conjunction with other inspectors of the Department, police officers, firefighters, or inspectors from other governmental bodies.
- (4) **Issuance of Orders to Repair.** Upon inspection, an authorized official or his/her designee, shall issue orders to repair for work needed:
  - a. To adequately protect the building from intrusion by trespassers and from deterioration by the weather;
  - b. To comply with the Vacant Building Maintenance Standards set forth in this Section;
  - c. To ensure that allowing the building to remain will not be detrimental to public health, safety, and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood; or
  - d. To eliminate any hazards to police officers or firefighters that may enter the premises in times of emergency.

When issuing Orders to Repair, the authorized official shall specify the deadline for completion of the repair required and shall mail the notice to the owner or responsible person identified in the permit. All work done pursuant to this Section shall be done in compliance with any applicable Building, Fire, Property Maintenance and Zoning Codes and Ordinances.
- (5) **Reinspections.** Reinspections may be conducted after the deadline for repair as stated in the Order. Reinspections are subject to applicable reinspection fees.
- (6) **Notices and Orders.** An authorized official may issue notices and orders to owners, responsible persons, operators, or occupants to obtain compliance with this Section.

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(h) **Fees and Penalties.**

- (1) **Vacant Building Permit Fee.** The Common Council shall, by Resolution, establish a fee for issuance and renewal of a Vacant Building Permit Fee.
- (2) **Permit Fee Due.** The Vacant Building Permit Fee is due upon the one hundred eighty (180) day inspection.
- (3) **Reinspection Fees.**
  - a. To compensate the City for inspection and administrative costs related to the enforcement, an escalating fee established by the Common Council through resolution, may be charged for any reinspection following the initial inspection which resulted in an order for corrective action, and the first reinspection to determine compliance with an order for corrective action issued hereunder. There shall be no reinspection fee if the inspection indicates full compliance, or for a reinspection occurring during the period of an approved time extension granted for good cause and involving a good faith effort on the part of the property owner to comply with the order.
  - b. Reinspection fees which are not paid by or on behalf of the property owner within thirty (30) days of mailing an invoice to the property owner on record on the City tax roll, the charge shall be deemed delinquent and shall become a lien on the property subject to the permit until paid in full, with interests and penalties on the delinquent amounts as allowed under sec. 74.47, Wis. Stats.
- (4) **Penalties.**
  - a. **Violation Penalties.** Any person who shall violate a provision of this Section shall, upon conviction, be subject to forfeiture of not less than One Hundred (\$100.00) nor more than One Thousand (\$1,000.00) Dollars; and, in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.
  - b. **Abatement of Violation.** The imposition of the penalties herein prescribed shall not preclude the City Attorney from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a structure or premises, or to stop an illegal act, conduct business, or utilization of the structure or premises.

## **Section 15.5.6 Enforcement, Service of Notices and Orders and Hearings.**

Whenever the Building Inspector determines that there are reasonable grounds to believe that there has been a violation of any provision of this Chapter or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefor and commence an enforcement action pursuant to Section 15.4.10.



## **Title 15 - Chapter 6**

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# **Grievances Regarding Access to Public Buildings, Programs, Services and Employment**

### **Section 15.6.1 Grievance Procedures Regarding Access to Public Buildings, Programs, Services and Employment.**

(a) **Statement of Purpose.**

- (1) The City of Hillsboro, in complying with the Americans with Disabilities Act (ADA), 42 USC Sec. 12101, has developed a plan by which access to all City programs, facilities, services and employment is guaranteed to all citizens. A transition plan has been adopted by the Common Council and is available from the City Clerk. An ADA Coordinator has been appointed and an ADA Compliance Committee established. Concerns and/or complaints can be addressed to the ADA Coordinator, care of the City of Hillsboro City Clerk.
- (2) The ADA Coordinator and ADA Compliance Committee shall be annually appointed by the Mayor, subject to confirmation by the Common Council, at the Council's organizational meeting. The ADA Compliance Committee shall consist of five (5) members, and shall, if possible, have representatives from the following fields:
  - a. Business and/or non-profit organization.
  - b. Education.
  - c. Disabled representative.
  - d. Elected official.
  - e. Health/medical.
- (3) In the alternative to the committee structure in Subsection (a)(2) above, the Common Council may designate a standing committee to serve as the ADA Compliance Committee.
- (4) City letterhead and other applicable printed notices should contain the words "An equal opportunity/affirmative action employer."

- (5) An ADA Committee meeting shall be treated as any other City committee meeting and notice shall be posted a minimum of twenty-four (24) hours prior to the meeting.
- (b) **Complaint Procedure.**
- (1) Complaints shall be filed with the ADA Coordinator, in care of the City Clerk.
  - (2) A complaint shall be filed in writing, contain the name and address of the person filing it, and briefly describe the alleged violation or complaint.
  - (3) A complaint should be filed within thirty (30) days after the complainant becomes aware of the alleged problem.
  - (4) An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by the ADA Coordinator.
  - (5) A written determination as to the validity of the complaint and description of the resolution, if any, shall be issued by the ADA Coordinator and a copy forwarded to the complainant no later than twenty (20) days after its filing.
  - (6) The City Clerk shall maintain the files and records of the City relating to the complaints filed.
- (c) **Appeals.**
- (1) If unresolved, the complainant or ADA Coordinator may ask that the complaint be forwarded to the ADA Compliance Committee. The Committee may establish rules to review the complaint and will issue its written decision within thirty (30) days. Review will be conducted in public with a minimum twenty-four (24) hour notice. All proceedings will be transcribed and maintained. The Committee will also review requests or suggestions from disabled persons regarding access to and participation in public facilities, services, activities and functions in the community.
  - (2) If unresolved, the complainant or ADA Coordinator may ask that the complaint be heard by the Common Council and that a determination be made within thirty (30) days of the ADA Compliance Committee's hearing. The decision by the Board shall be final. An open, public meeting of the Common Council shall precede the vote.
- (d) **Other Remedies.** The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other state or federal remedies. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies. However, the City believes that resolution of the complaint will be more promptly achieved if the City is able to provide a remedy before the complaint is brought to an external organization.
- (e) **Due Process.** This Section shall be construed to protect the substantive rights of interested persons and to meet appropriate due process standards.

# Title 15 - Chapter 7

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## Historic Preservation

### Section 15.7.1 Purpose and Intent.

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

- (a) Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of the City of Hillsboro's cultural, social, economic, political and architectural history.
- (b) Safeguard the City of Hillsboro's historic prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts.
- (c) Stabilize and improve property values, and enhance the visual and aesthetic character of the City of Hillsboro.
- (d) Protect and enhance the City of Hillsboro's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

### Section 15.7.2 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Certificate of Appropriateness.** The certificate issued by the Commission approving alteration, rehabilitation, construction, reconstruction or demolition of a historic structure, historic site or any improvement in a historic district.
- (b) **Commission.** The Historic Preservation Commission created under this Chapter.
- (c) **Historic District.** An area designated by the Common Council on recommendation of the Commission, that contains two (2) or more historic improvements or sites.
- (d) **Historic Site.** Any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this Chapter, or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

- (e) **Historic Structure.** Any improvement which has a special character or special historic interest or value as part of the development heritage or cultural characteristics of the City of Hillsboro, state, or nation and which has been designated as a historic structure pursuant to the provisions of this Chapter.
- (f) **Improvement.** Any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

### **Section 15.7.3 Historic Preservation Commission.**

A Historic Preservation Commission is hereby created, consisting of seven (7) members. Of the membership, if available in the community, one (1) shall be a registered architect; one (1) shall be a historian; one (1) shall be a licensed real estate broker; one (1) shall be an Alderperson; and three (3) shall be citizen members. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The Mayor shall appoint the Commissioners subject to confirmation by the Common Council. Of the initial members so appointed, two (2) shall serve a term of one (1) year, two (2) shall serve a term of two (2) years and three (3) shall serve a term of three (3) years. Thereafter, the term for each member shall be three (3) years.

### **Section 15.7.4 Historic Structure, Historic Site and Historic District Designation Criteria.**

- (a) For purposes of this Chapter, a historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archaeological or cultural significance to the City of Hillsboro such as historic structures, sites, or districts which:
  - (1) Exemplify or reflect the broad cultural, political, economic, or social history of the nation, state or community; or
  - (2) Are identified with historic personages or with important events in national, state or local history; or
  - (3) Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship;
  - (4) Are representative of the notable work of a master builder, designer or architect who influenced his/her age; or



- (5) Have yielded, or may be likely to yield, information important to prehistory or history.
- (b) The Commission shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this Chapter:

## **Section 15.7.5 Powers and Duties of Commission.**

- (a) **Designation.** The Commission shall have the power, subject to Section 15.7.6, to designate historic structures and historic sites and to recommend designation of historic districts within the City of Hillsboro limits. Such designations shall be made based on Section 15.7.4. Historic districts shall be approved by the Common Council. Once designated, such historic structures, sites and districts shall be subject to all the provisions of this Chapter.
- (b) **Regulation of Construction, Reconstruction, Alteration and Demolition.**
  - (1) No owner or person in charge of a historic structure, historic site or structure within a historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. Unless such certificate has been granted by the Commission, the Building Inspector shall not issue a permit for any such work.
  - (2) Upon filing any application for a Certificate of Appropriateness with the Commission, the Commission shall approve the application unless:
    - a. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement or site upon which said work is to be done;
    - b. In the case of the construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;
    - c. In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this Chapter and to the objectives and design criteria of the historic preservation plan for said district;
    - d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City of Hillsboro and state;

- e. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.
- (3) If the Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The Commission shall make this decision within forty-five (45) days of the filing of the application.
- (4) The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City of Hillsboro. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.
- (5) Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness, provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance, and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.
- (c) **Appeals.** Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Common Council within thirty (30) days. In addition, if the Commission fails to issue a Certificate of Appropriateness, the Commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this Chapter.
- (d) **Recognition of Historic Structures, Sites and Districts.** At such times as a historic structure, site or district has been properly designated, the Commission, in cooperation with the property owner, may cause to be prepared and erected on such property at the City of Hillsboro's expense, a suitable plaque declaring that such property is a historic structure, site or district.

## **Section 15.7.6      Procedures.**

- (a) **Designation of Historic Structures, Historic Sites and Historic Districts.**
  - (1) The Commission may, after notice and public hearing, designate historic structures, historic sites and recommend historic districts, or rescind such designation or recommendation, after application of the criteria in Section 15.7.4 above. At least ten (10) days prior to such hearing, the Commission shall notify the owners of record, as listed in the office of the City Assessor, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected.
  - (2) The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena

such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within ten (10) days after the close of the public hearing, the Commission may designate the property as either a historic structure, historic site, or recommend its inclusion in a historic district, or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given the City Clerk, Building Inspector, Plan Commission and the City Assessor. The Commission shall cause the designation or rescission to be recorded, at City of Hillsboro expense, in the County Register of Deeds office, or the recommendation be submitted to the Common Council as provided by Subsection (b) below.

(b) **Creation of Historic District.**

- (1) For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the City of Hillsboro to be designated as Historic Districts and shall prepare a historic preservation plan for each area. A Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the City of Hillsboro, after application of the criteria in Section 15.7.4 above. Each historic preservation plan prepared for or by the Historic Preservation Commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.
- (2) Review and adoption procedure:
  - a. **Historic Preservation Commission.** The Historic Preservation Commission shall hold a public hearing when considering the plan for a Historic District. Notice of the time, place and purpose of the public hearing shall be sent by the City Clerk to the Alderpersons in which the Historic District is located, and the owners of record, as listed in the office of the City Assessor, who are owners of the property within the proposed Historic District or are situated in whole or in part within two hundred (200) feet of the boundaries of the proposed Historic District. Said notice is to be sent at least ten (10) days prior to the date of the public hearing. Following the public hearing, the Historic Preservation Commission shall vote to recommend, reject or withhold action on the plan.
  - b. **The Common Council.** The Common Council, upon receipt of the recommendations from the Historic Preservation Commission, shall hold a public hearing, notice to be given as noted in Subsection a. above, and shall following the public hearing, either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.

### **Section 15.7.7 Interim Control.**

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

### **Section 15.7.8 Penalties for Violations.**

Any person or persons violating any provision of this Chapter shall be fined an amount set by the City Council from time to time for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violation shall be issued by the Building Inspector.