

## APPENDIX B

### ZONING\*

ORDINANCE NO. 1481

*An Ordinance creating a zoning Ordinance and zoning map of the City of Madison, Lake County, South Dakota: Repealing Ordinance number 704 effective July 1, 1953, all amendments thereto, and Chapters 10-19, 10-20, 15-49, 15-50, 15-51, 15-52, 15-53, 15-54, 15-55, 15-56, 15-57, 15-58, 15-59, 15-60, 15-61, 15-62, 15-63; regulating and restricting the location and use of buildings and the use of land in the City of Madison, Lake County, South Dakota: Regulating the density of development; providing for yard spaces and for off-street parking and loading; providing for performance standards for industry; creating a Board of Adjustment and providing for appeals thereto; for these and related purposes dividing the City of Madison, Lake County, South Dakota, into zones and providing for penalties for violation of the provisions set forth herein.*

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF MADISON, LAKE COUNTY, SOUTH DAKOTA.

#### ARTICLE I GENERAL PROVISIONS

##### **Sec. 17.00. Title and Application.**

##### **Sec. 17.00.01. Title.**

This ordinance shall be known and referred to as "The Zoning Ordinance of the City of Madison, South Dakota."

##### **Sec. 17.00.02. Jurisdiction.**

The provisions of this ordinance shall apply to all territory within the boundaries of the City of Madison, South Dakota, as established on the Official Zoning Map of the City of Madison.

##### **Sec. 17.00.03. Purpose and Intent.**

This regulation is enacted for the purpose set forth and provided for in South Dakota Compiled Laws and Amendments, Chapters 11-4 and 11-6, that is, among other things to promote safety morals, or the general welfare of the community. This ordinance has been prepared in accordance with the Comprehensive Land Use Plan and is designed to coordinate physical development of the community with needs for public services and facilities. More specifically, this ordinance is adopted in order to achieve the following objectives:

1. To foster a harmonious, convenient, workable relationship among land uses.
2. To promote the stability of existing land uses that conform with the Comprehensive Land Use Plan and to protect them from inharmonious influences and harmful intrusions.

3. To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the community as a whole.
4. To prevent excessive population densities and overcrowding of the land with structures.
5. To protect and enhance real estate values.
6. To safeguard and enhance the appearance of the community, including natural amenities.
7. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the Comprehensive Land Use Plan.

### **Sec. 17.01. Ordinance Provisions.**

#### **Sec. 17.01.01. Provisions of Ordinance Declared to be Minimum Requirements.**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

#### **Sec. 17.01.02. Violations/Penalties for Violation.**

1. Violations of the ordinance shall be treated in the manner specified below.
  - a. Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this zoning ordinance, without first securing such permit and paying the applicable permit fee(s) established in accordance with Section 17.20.03 of these ordinances, shall be charged according to the provisions of this section. All administrative fees assessed there under shall be rounded to the nearest whole dollar.
    - i. Upon finding such violation, the Administrative Official shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. Application for said permit shall be filed within seven (7) working days from the verbal notification or date of receipt of the letter.
    - ii. If application for said permit is filed after the original deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of one hundred percent (100%) the normal fee for the associated building permit, conditional use permit, variance, and/or rezoning. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (b) below.
    - iii. Any administrative fee or penalty imposed under the provisions of this zoning ordinance shall be in addition to any other fees or charges required under this zoning ordinance.

- b. It is declared unlawful for the owner or any agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist to violate any of the terms and provisions of these regulations or other official control adopted by the City Commission pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this zoning ordinance may be subject to a civil or criminal penalty. The penalty for violation of this zoning ordinance shall be five hundred dollars (\$500.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the Finance Officer and shall be credited to the General Fund of the City.
- c. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building or structure or land is used in violation of this ordinance or other regulation, the Administrative Official, or the City of Madison, as a corporation or any interested person, in addition to other remedies, may institute injunction, mandamus or any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use of land, to restrain, correct or abate such violation, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business, or use in and to and of such premises.
- d. Any taxpayer of the City may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

### **Sec. 17.01.03. Severability and Validity.**

Should any section, subsection, sentence, clause or phrase of this Ordinance be, for any reason, declared by the courts to be unconstitutional or invalid such decision shall not affect the validity of the ordinance as a whole or the remaining portion or portions of this Ordinance.

### **Sec. 17.01.04. Repealer.**

Ordinance number 704 which created Chapter 17, of the Revised Ordinances of the City of Madison, South Dakota, effective July 1, 1953, Chapters 10-19, 10-20, 15-49, 15-50, 15-51, 15-52, 15-53, 15-54, 15-55, 15-56, 15-57, 15-58, 15-59, 15-60, 15-61, 15-62, 15-63, and all amendments thereto are hereby repealed and in addition thereto any and all other Ordinances or parts thereof of the City of Madison, Lake County, South Dakota are hereby repealed.

### **Sec. 17.01.05. Effective Date.**

These regulations shall be in full force and effect from and after their passage, approval, publication, and effective date of the Zoning Ordinance of the City of Madison, South Dakota, as provided for by South Dakota law.

**Sec. 17.02. Official Zoning Map.****Sec. 17.02.01. Official Zoning Map.**

The location, size, shape and boundaries of the zones to which the provisions of the text of this Ordinance are applicable, shall be indicated on the atlas of maps which entitled "Official Zoning Map Exhibit A" incorporated herein and by this reference made a part hereof and such maps, after being adopted by reference as a part of this Ordinance, and so certified by the City Finance Officer together with the text, shall be maintained by the City Finance Officer and such atlas shall be the official zoning map, for the purpose of enforcement of this Ordinance. Any amendment to the zoning classifications on "Official Zoning Map Exhibit A" shall include the legal description of the land involved including appropriate adjacent public rights-of-way.  
(Ord. No. 1223, 7-8-96)

If, in accordance with the provisions of this Ordinance and Chapter 11-4, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall not become effective until after said changes have been made on the Official Zoning Map by the Finance Officer or in his absence a person designated by the City Commission. Any unauthorized change by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Article I, Section 17.01.02.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the City Offices, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

**Sec. 17.02.02. Establishment of Zones.**

In carrying out the provisions of Chapter 11-4 and 11-6 of the South Dakota Compiled Laws. The Planning Commission of Madison, South Dakota, have divided the City into districts and have prepared regulations pertaining to such districts in accordance with a comprehensive plan and designated to accomplish the purpose set forth in said statute.

**Sec. 17.02.03. Interpretation of Map.**

The following rules shall govern interpreting the boundaries of zones as portrayed on the Official Zoning Map Exhibit A.

1. The boundaries of the zones, except where otherwise referenced, are intended to follow the lines of platted lots, centerlines of streets and alleys, and when lines appear to be not more than ten (10) feet from the line of a platted lot, the boundary shall be interpreted as being coincidental therewith.
2. When boundaries cross unplatted property or platted lots otherwise than set forth above, and their distances are not clearly marked, their location shall be determined by use of the scale of the map and every such line shall be interpreted to fall on the nearest multiple of ten (10) feet.

3. Boundaries indicated as approximately following City limits shall be construed as following City limits.
4. Boundaries indicated as following railroad tracks shall be construed to be midway between the rails of the main tracks.
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, reservoirs, flood control channels or other bodies of water shall be construed to follow such centerlines and shall move with such centerlines in case of shifting.
6. In case of doubt or dispute, the boundary lines shall be determined by the Board of Adjustment upon receiving an appeal from a ruling of the Administrative Official.

**Sec. 17.02.04. Annexation.**

Subsequent to the effective date of these regulations, any land annexed into the municipal boundaries of the City of Madison shall upon such annexation automatically be designated as R-90 unless otherwise approved.

**Sec. 17.02.05. Changes and/or Replacement of Official Zoning Map.**

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Commission may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the Original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Finance Officer, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Madison, State of South Dakota."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

Changes to or replacement of the Official Zoning Map shall require amendment of this regulation by ordinance, as provided for in Article III, Section 17.24.07 of these regulations.

## **ARTICLE II DISTRICT REGULATIONS**

### **Sec. 17.10. Applications of District Regulations.**

#### **Sec. 17.10.01. Applicability of Regulations.**

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.

#### **Sec. 17.10.02. Applicability to Land and Building.**

No building, structure, or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

#### **Sec. 17.10.03. Structures; Construction or Alteration; Limitations of.**

No building or other structure shall hereafter be erected or altered:

1. To exceed the height or bulk;
2. To accommodate or house a greater number of families;
3. To occupy a greater percentage of lot area;
4. To have narrower or smaller rear yards, front yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this ordinance; and
5. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or below the minimum requirements set forth herein. Yards or lots created after the effective date of these ordinances shall meet at least the minimum requirements established by this ordinance.

### **Sec. 17.11. Parcels.**

#### **Sec. 17.11.01. Parcels to be Designated.**

In order to facilitate the enforcement of this Ordinance the device of parcels as defined herein shall be used. A tract of land shall be designated by the Administrative Official as forming the site of each new building, structure or use of land or the site of any building structure or use of land designated for any alteration or modification requiring a building permit. Any tract of land (parcel) shall conform in dimensions and area to the provisions of this Ordinance. A parcel may or may not coincide with platted lot lines. Each parcel shall front on a public street of not less than twenty-five (25) feet in width for a distance of not less than twenty (20) feet or shall have an exclusive, unobstructed, permanent access to such a public street by an easement of not less than twenty (20) feet in width and not to exceed one hundred fifty (150) feet in length. Approval of any building permit on a parcel shall serve as designation by the Administrative Official that said parcel conforms in dimensions and area to the provisions of this Ordinance.

**Sec. 17.12. Non-Conforming Uses.****Sec. 17.12.01. Intent.**

Within the districts established by this ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of structure and land in combination shall not be extended or enlarged after passage of this ordinance by the addition of other uses, or a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

**Sec. 17.12.02. Repairs and Maintenance.**

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding ten (10) percent of the current replacement cost based upon fair market value of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

**Sec. 17.12.03. Uses and Structures.**

A lawful use or structure existing at the time this ordinance is adopted or amended may continue even though such use does not conform to the district regulations subject to the following provisions:

1. Whenever a non-conforming use or structure has been changed to a more restricted or conforming use, it shall not be changed back to a less restricted use.
2. When the use of a building is non-conforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than fifty (50) percent of its fair market value, it shall not be restored except in conformity with the provisions of the district in which the building is located. Exception: Single-family dwellings may by conditional use permit, be restored if damaged less than one hundred (100) percent.
3. When a non-conforming use or structure is discontinued for a period of one (1) year, it shall not be continued unless in conformance with the requirements of this ordinance and SDCL 11-6-39.
4. Any non-conforming use may be extended throughout any part of a structure which was arranged or designed for such use previous to the adoption of this ordinance, but shall not be extended outside such structure.
5. No existing non-conforming use or structure shall be enlarged, moved, or structurally altered except to change to a use permitted in the district in which the premise is located except that a conditional use permit may be authorized after the following criteria are given specific consideration:
  - a. Effect on surrounding property values.
  - b. The density of land use zoning for the subject and adjacent properties.
  - c. The degree of hardship upon the applicant which would be caused by failure to grant the permit.
  - d. It can be demonstrated that it was the owner's intent to use the entire premises for said use prior to the adoption, revision or amendment of this ordinance.
6. Type I and Type II Manufactured Homes located upon any lot or lots of record at the time of the adoption of this Ordinance may be replaced by Type I and/or Type II Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a non-conforming to a conforming use. If a replacement Type I and/or Type II Manufactured Home is of larger dimension than the existing Type I and/or Type II Manufactured Home, then application must first be made to the Board of Adjustment for a conditional use permit.
7. Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:
  - a. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.

- b. Structural alteration of buildings or structures may otherwise be made if such changes do not further encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the district in which they are located. Exception: The Board of Adjustment may allow buildings with side yard setbacks less than required herein to have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building and the addition shall further conform to all ordinance requirements.
  - c. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the district in which they are located.
8. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the Planning Commission, City Commission, and/or Board of Adjustment as set forth elsewhere in this Ordinance.

**Sec. 17.12.04. Uses Under Conditional Use Provisions Not Non-Conforming Uses.**

Any use which is permitted as a conditional use in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a non-conforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

**Sec. 17.12.05. Non-Conforming Lots of Record.**

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this Ordinance.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such a lot fails to meet the requirements of area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations of the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

**Sec. 17.13. District Regulations.**

**Sec. 17.13.01. Generally.**

The district regulations included in this Chapter may be qualified or supplemented by additional regulations appearing elsewhere in this ordinance.

Any use or uses not specifically permitted in a particular district as a principal use, an accessory use, a qualifying non-conforming use existing at the effective date of these regulations, or a conditional use granted in accordance with the provisions of Section 17.24.02 of these regulations, is hereby specifically prohibited. (In the regulations for some zones specific excluded uses are enumerated for clarification of intent, but such lists of excluded uses are not to be interpreted as including all excluded uses.)

Deviation from zoning district lot, yard and related requirements, and deviation from city-wide zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Article III, Section 17.24.07 of these regulations.

Additional requirements and standards for uses and structures permitted by conditional use permit may be established by the Board of Adjustment as conditions to said conditional use permit.

### **Sec. 17.13.02. Zoning Districts.**

The following zone and use districts are hereby established for the purposes of administration and enforcement of this ordinance. Section number, symbols, titles and a brief description of each of the zones established by this Ordinance is as follows:

“**AG**”: Agricultural District.

“**RR**”: Rural Residential District.

“**R-90**”: Single Family Residence, 9000 square foot district

“**R-60**”: Duplex Residence, 6000 square foot district.

“**R-20**”: Multiple Family, 2000 square foot district.

“**RM**”: “Manufactured Housing Residential District.”

“**PD**”: Planned Unit Development District.

“**CB**”: Central Business District.

“**GB**”: General Business District

“**HB**”: Highway Business District.

“**NB**”: Neighborhood Business District.

“**MU-R**”: Mixed Use/Residential Emphasis District.

“**ML**”: Light Manufacturing District.

“**MH**”: Heavy Manufacturing District.

### **Sec. 17.13.03. Overlay Districts.**

The following districts shall be designated as zoning overlay districts, imposing special regulations on the properties that fall within these overlay districts without abrogating the requirements imposed by the underlying land use district regulations:

“**WS**”: Water Source Protection Overlay District.

“**WR**”: Water Retention/Conveyance Overlay District

“**AP**”: Airport Overlay District

“**AZ**”: Airport Safety Zone Overlay District.

“**GT-1**”: US Highway 81, South Dakota Highway 34 and Highland Ave (East/West) Gateway Overlay District.

“**GT-2**”: Third Street North, Eleventh Street South, and Highland Ave (North/South) Gateway Overlay District.

“**MU-E**”: Egan Avenue Corridor Mixed Use Overlay District

“**MU-C**”: Mixed Use - Commercial Emphasis Overlay District

### **Sec. 17.14. AG “Agricultural District.”**

#### **Sec. 17.14.01. Purpose and Intent**

This zone is designed to preserve lands best suited for agricultural use from encroachment of incompatible uses, and to preserve in agricultural use, land suited to eventual development in other uses pending proper timing for practical and economical provision of utilities, major streets, schools and other facilities so that reasonably compact development will occur and the final integrity of the City preserved. A change of zoning from AG to any other classification shall be in accordance with planning practices established by the Planning Commission.

#### **Sec. 17.14.02. Principal Permitted Uses Agricultural District.**

1. Horticulture and the raising of field crops.
2. Site built single-family dwellings.
3. Utility Substations
4. Nurseries and Greenhouses.
5. Roadside stands for sales of agricultural products grown or produced on the premises.
6. Modular and Type I manufactured homes
7. Public parks and recreation areas and facilities

#### **Sec. 17.14.03. Permitted Accessory Uses Agricultural District.**

1. Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limits of this district.

**Sec. 17.14.04. Conditional Uses Agricultural District.**

1. Commercial or private recreation areas or developments including but not limited to: Riding stables/academies, dude ranches, golf courses, country clubs, golf driving ranges, outdoor theaters, swimming pools, and similar commercial recreation enterprises.
2. Privately operated recreational camps and facilities
3. Churches, schools, colleges, and similar facilities.
4. Bed and breakfast.
5. Veterinarian offices and animal hospitals
6. Home Occupations
7. Animal Sales/auction yards or barns
8. Telecommunications Facilities
9. Public building or facilities erected or established and operated by any governmental agency.
10. Cemeteries
11. Type II manufactured homes
12. Stable, Pasture, or Kennel (see 17.315)
13. Exceptions to Height Regulations (see Sec. 17.39)
14. Vertical axis wind turbines (See Sec. 17.319)
15. Small Wind Energy Conversion Systems (See Section 17.319).  
(Ord. No. 1491, 5-3-10)

**Sec. 17.14.05. Area/Construction Regulations.**

The following space limitations shall apply to structures and buildings associated with each principal permitted use, and each accessory use, except fences and signs:

1. *Minimum site area for a farmstead or dwelling:* Twenty (20) acres for each dwelling unit.
2. *Minimum front yard setback:* One hundred twenty (120) feet measured from the centerline of each and every road.
3. *Minimum yard space, other yards:* One foot removed from the property line for each foot of height of the structure, but in no event less than ten feet.

**Sec. 17.14.06. Miscellaneous Provisions Agricultural District.**

1. Off-street parking space shall be provided for all uses established in this zone.
2. Only one building for living purposes shall be permitted on one parcel except as otherwise provided herein.

**Sec. 17.15. “RR” Rural Residential District.****Sec. 17.15.01. Purpose and Intent.**

The intent of the “RR” Rural Residential District is to protect a vigorous agricultural industry by limiting the areas in which this district can be used. The RR rural residential district, where permitted, shall generally be located where provisions can be made to adequately handle sewage disposal, where the value of the land for agricultural use is marginal, and where the water supply, roads and emergency services are easily and economically available.

**Section 17.15.02. Permitted Uses.**

The following uses and structures shall be permitted in the “RR” Rural Residential District:

1. Site built single-family dwelling.
2. Utility substations.
3. Any form of horticultural agricultural activities.
4. Public park and recreation areas.
5. Non-commercial gardening by tenant or owner.

**Section 17.15.03. Permitted Accessory Uses.**

The following accessory uses and structures shall be permitted in the “RR” Rural Residential District.

1. Accessory buildings and uses customarily incidental to permitted uses.

**Section 17.15.04. Conditional Uses.**

The Board of Adjustment, subject to such requirements, may permit the following uses as a conditional use in the “RR” Rural Residential District as the Board deems necessary to protect and promote the health, safety, and general welfare:

1. Dwellings for members of religious orders.
2. Day care center.

3. Home Occupations.
4. Stable, Pasture, or Kennel (see 17.316).
5. Private lake.
6. Nursing home.
7. Parochial or Public School.
8. Churches.

**Sec 17.15.05. Area/Construction Regulations.**

The maximum height and minimum lot requirements within the RR rural residential district shall be as follows:

	Density****	Lot Area (Sq. Ft.)	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height
All uses	1 acre*	1 acre*	125'	30**	7.5'	30'	35'
Corner lots	1 acre*	1 acre*	125'	30****	7.5'	15'	35'

\* On lots that have public sanitary sewer, the minimum lot area may be reduced to 20,000 square feet.

\*\* The front yard on all major arterial or collector streets shall be 50 feet.

\*\*\* One required yard may be reduced to 25 feet.

\*\*\*\* Density per family requirements shall not apply to dormitories, fraternities, sororities, nursing homes or other similar group quarters where no cooking facilities are provided in individual rooms or apartments.

**Sec. 17.16. R-90 “Single Family Residence 9,000 Square Foot District.”**

**Sec. 17.16.01. Purpose and Intent.**

This zone is designed to stabilize and protect the residential characteristics of the district and to encourage single family residences on medium sized lots. More uses are allowed as a matter of right throughout the zone than in the larger lot size zones.

**Sec. 17.16.02. Principal Permitted Uses.**

1. Site built single-family dwellings.
2. Modular Homes.

**Sec. 17.16.03. Permitted Accessory Uses.**

1. Accessory uses and structures customarily incidental to permitted uses.

**Sec. 17.16.04. Conditional Uses.**

1. Utility substations when located according to the yard space rules set forth for dwellings and having a landscaped or a masonry barrier on all sides, and after a showing before the Board of Adjustment that technical considerations necessary to the functioning of said utility requires the location of the facility in a residential zone. Structures shall conform with all space limits of the zone in which located and shall have an exterior design in harmony with nearby properties.
2. Small business service and repair operations as determined and approved by the Planning Commission and the Board of Adjustment. The Planning Commission and the Board of Adjustment must determine after a public hearing that the proposed business is expected to be compatible with the surrounding residential characteristics of a particular neighborhood. Business conditional uses in residential zones may be granted only on a yearly basis. Applicants must apply on an annual basis to renew a small business conditional use in any residential zones. Renewals may be approved after due consideration regarding complaints, problems, nuisances, and other related pertinent factors regarding preserving the residential characteristics of the neighborhood.
3. Public, parochial and private schools and colleges offering courses of general instruction when located on sites of at least five acres, and including convents, monasteries, dormitories and other related living structures when located on the same site as the school or college.
4. Churches, synagogues, chapels and similar places of religious worship and instruction of a quiet nature when located in a substantial structure.
5. Crop and tree farming but not including the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises.
6. Parks and recreation areas operated by the City or other political subdivision.
7. Public and quasi-public buildings for cultural use.
8. Country Clubs.
9. Bed and Breakfast .
10. Landscaped/screened parking lots.
11. Condominiums subject to the following provisions:
  - a. *Dwelling units*: four (4) maximum;

- b. *Lot area:* four thousand five hundred (4,500) square feet per dwelling unit;
- c. *Maximum height of building:* thirty (30) feet;
- d. *Maximum ground coverage:* including accessory building, thirty (30) percent.

12. Twin Homes.

13. Day care centers.

14. Commercially available carports sold as a unit as a whole which utilize sheet siding.

15. Home Occupations.

**Sec. 17.16.05. Area/Construction Regulations.**

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	9,000 square feet	75'	35'	30%
Two Dwelling Units	6,000 square feet/dwelling unit	75'	35'	30%
Churches, synagogues, chapels and other similar places of worship	87,120 square feet (2 acres)	75'	35'	30%
Other Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard*	Minimum Front Yard (Multiple Frontage)		Minimum Rear Yard	Minimum Side Yard	
		If one (1) Front Yard is greater than 30'	If one (1) Front Yard is less than 30'		Party Wall Side	Non-Party Wall Side
Single Family Residential	30'	15'	25'	15'	0'	7.5'
Two Dwelling Units	30'	15'	25'	15'	0'	7.5'
Churches, synagogues, chapels and other similar places of worship	30'	15'	25'	15'	0'	7.5'
Conditional Uses	To be determined by the Board of Adjustment					

\*On lots with an existing dwelling, the minimum front yard shall be twenty-five (25) feet.

**Sec. 17.17. R-60 “Duplex Residence, 6,000 Square Foot District.”**

**Sec. 17.17.01. Purpose and Intent.**

This zone is designed to provide for one and two family dwelling areas on lots of moderate size, and up to four dwelling units on lots where considerations for public health, safety and welfare are provided for.

**Sec. 17.17.02. Principal Permitted Uses.**

1. Any permitted use in the R-90 Zone.
2. Twin Homes.
3. Two-family dwellings.

**Sec. 17.17.03. Permitted Accessory Uses.**

1. Accessory uses and structures customarily incidental to permitted uses.

**Sec. 17.17.04. Conditional Uses.**

1. Any conditional use in the R-90 Zone with the exception of Twin Homes/Two-family dwellings which are permitted uses in the R-60 District.
2. Fraternity and sorority houses when directly associated with a college or university.
3. Non-profit community organizations and social welfare establishments other than those providing living accommodations.
4. General nursing homes and rest homes.
5. Multiple family dwellings with up to four (4) dwelling units.
6. Type I manufactured homes.
7. Day care center.
8. Group homes.  
(Ord. No. 1496, 10-4-10)

**Sec. 17.17.05. Area/Construction Regulations.**

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	6,500 square feet	60'	35'	40%
Two Dwelling Units	4,000 square feet/dwelling unit	60'	35'	40%
Three - Four Dwelling Units	3,000 square feet/dwelling unit	60'	35'	40%
Nursing and Rest Homes	2,000 square feet/dwelling unit	60'	35'	40%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard*	Minimum Front Yard (Multiple Frontage)		Minimum Rear Yard	Minimum Side Yard	
		If one (1) Front Yard is greater than 30'	If all Front Yards are less than 30'		Party Wall Side	Non-Party Wall Side
Single Family Residential	25'	15'	25'	10'	0'	5'
Two Dwelling Units	25'	15'	25'	10'	0'	5'
Three - Four Dwelling Units	25'	15'	25'	10'	0'	5'
Nursing and Rest Homes	25'	15'	25'	10'	0'	5'
Conditional Uses	To be determined by the Board of Adjustment					

\*Thirty (30) is the minimum required front yard for corner lots

**Sec. 17.18. R-20 “General Residence, 2,000 Square Foot District.”**

**Sec. 17.18.01. Purpose and Intent.**

This zone is designed to provide for moderately high density apartment and multiple dwelling unit development and other compatible uses which have characteristics similar to those found in the operation of apartment houses.

**Sec. 17.18.02. Principal Permitted Uses.**

1. Any permitted use in the R-60 District.
2. Multiple-family Dwellings.

**Sec. 17.18.03. Permitted Accessory Uses.**

1. Accessory uses and structures customarily incidental to permitted uses.

**Sec. 17.18.04. Conditional Uses.**

1. Any conditional use in the R-60 District with the exception of Multiple family dwellings which are permitted uses in the R-20 District.
2. Offices.
3. Mortuaries, funeral homes and funeral chapels.
4. Hospitals and clinics.
5. Rooming houses and boarding houses.
6. Private clubs.
7. Non-profit community organizations and social welfare establishments.
8. Beauty shops.

**Sec. 17.18.05. Area/Construction Regulations.**

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	6,000 square feet	50	75'	80%
Two Dwelling Units	3,500 square feet/dwelling unit	50	75'	80%
Three to Four Dwelling Units	2,500 square feet/dwelling unit	50	75'	80%
Greater than 4 Dwelling Units	2,000 square feet/dwelling unit	50	75'	80%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard*	Minimum Front Yard (Multiple Frontage)		Minimum Rear Yard	Minimum Side Yard	
		If one (1) Front Yard is greater than 30'	If all Front Yards are less than 30'		Party Wall Side	Non-Party Wall Side
Single Family Residential	25'	15'	25'	10'	0'	5'
Two Dwelling Units	25'	15'	25'	10'	0'	5'
Three to Four Dwelling Units	25'	15'	25'	10'	0'	5'
Greater than 4 Dwelling Units	25'	15'	25'	10'	0'	5'
Conditional Uses	To be determined by the Board of Adjustment					

\*Thirty (30) is the minimum required front yard for corner lots

**Sec. 17.19. RM “Manufactured Housing Residential District.”**

**Sec. 17.19.01. Purpose and Intent.**

This district is intended to provide for areas of manufactured housing and permits the permanent installation of single-family detached manufactured homes on privately owned (non-rental) lots, licensed manufactured home parks and support facilities such as schools, public utilities and churches.

**Sec. 17.19.02. Permitted Uses.**

A building or premises shall be permitted to be used for the following purposes in the MR Residential District:

1. Type I manufactured homes;
2. Type II manufactured homes; and
3. Modular homes. (See Section 17.311.)

**Sec. 17.19.03. Permitted Accessory Uses.**

1. Accessory uses and structures customarily incidental to permitted uses.

**Sec. 17.19.04. Conditional Uses.**

1. Neighborhood Utilities.
2. Churches.
3. Elementary and High Schools.
4. Electrical Substation.
5. Manufactured Homes/Manufactured Housing Park.
6. Storage Rental Buildings.
7. Private Lake.
8. Day-Care Center.
9. Public Utility Facility.
10. Dwelling, Single-Family Detached.
11. Twin Homes.
12. Type III Manufactured Homes.
13. Home Occupations.

**Sec. 17.19.05. Area/Construction Regulations.**

Except for manufactured home parks, which shall be regulated in conformance with Section 17.312, the maximum height and minimum lot requirements within the RM Manufactured Housing Residential District shall be as follows:

1. *General Requirements:*

	Density	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height
Res. Uses	5500	5500	50'	25'	5'**	15'	35'
Corner Lots	6000	6000	60'	25'*	5'**	15'	35'
All Other Uses	6000	6000	60'	25'*	15'	15'	35'

\* One required front yard may be reduced to 20 feet.

\*\* The side yard will be required to be increased to 10 feet when the building is 3 stories in height or more.

**Sec. 17.110. PD “Planned Unit Development District.”****Sec. 17.110.01. Purpose and Intent.**

This district is designed to provide for innovations in the siting of residential buildings.

**Sec. 17.110.02. Principal Permitted Uses.**

1. Site built single-family dwellings.
2. Modular homes.
3. Multiple-family dwellings.

**Sec. 17.110.03. Permitted Accessory Uses.**

1. Accessory uses and structures customarily incidental to permitted uses.

**Sec. 17.110.04. Conditional Uses.**

1. Utility substations when located according to the yard space rules set forth for dwellings and having a landscaped or a masonry barrier on all sides, and after a showing before the Board of Adjustment that technical considerations necessary to the functioning of said utility requires the location of the facility in a residential zone. Structures shall conform with all space limits of the zone in which located and shall have an exterior design in harmony with nearby properties.
2. Small business service and repair operations as determined and approved by the Planning Commission and the Board of Adjustment. The Planning Commission and the Board of Adjustment must determine after a public hearing that the proposed business is expected to be compatible with the surrounding residential characteristics of a particular neighborhood. Business conditional uses in residential zones may be granted only on a yearly basis. Applicants must apply on an annual basis to renew a small business conditional use in any residential zones. Renewals may be approved after due consideration regarding complaints, problems, nuisances, and other related pertinent factors regarding preserving the residential characteristics of the neighborhood.
3. Public, parochial and private schools and colleges offering courses of general instruction when located on sites of at least five acres, and including convents, monasteries, dormitories and other related living structures when located on the same site as the school or college.
4. Churches, synagogues, chapels and similar places of religious worship and instruction of a quiet nature when located in a substantial structure.
5. Crop and tree farming but not including the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises.

6. Parks and recreation areas operated by the City or other political subdivision.
7. Public and quasi-public buildings for cultural use.
8. Country Clubs.
9. Bed and Breakfast.
10. Landscaped/screened parking lots.
11. Home Occupations.
12. Vertical axis wind turbines (See Section 17.319).
13. Small Wind Energy Conversion Systems (See Section 17.319).  
(Ord. No. 1491, 5-3-10)

**Sec. 17.110.05. Area/Construction Regulations.**

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Required Setback for Lots Adjacent to Any Other District	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	2,000 square feet/Dwelling Unit	20'	45'	80%
Conditional Uses	To be determined by the Board of Adjustment			

**Sec. 17.110.06. Procedure for Planned Unit Development Zone.**

1. When a property owner wishes to develop a parcel of property of at least five (5) acres of proper shape, but siting buildings in a manner other than normal lot arrangement, he may apply for a zoning change to a PD, Planned Unit Development Zone. Said zoning change shall be an amendment of the zoning map and shall follow all procedural requirements for such changes set forth herein.
2. As an exhibit accompanying the application for amendment to the zoning map, the owner shall provide a detailed site plan and such other sketches, diagrams and calculations necessary to determine whether the proposed development conforms with the provisions of this zone.

All such site plans, sketches, diagrams and calculations shall become a part of the amendment and shall form the basis for issuance of a building permit in conformity therewith. Plan changes which increase the number of dwelling units, building height or bulk or change the location of structures, shall require a resubmission for approval. Minor adjustments in the orientation of buildings or decrease in the number of dwelling units, building units, building height or bulk, may be approved by the Building Inspector.

3. Before approving a PD, Planned Unit Development Zone classification the Planning Commission and the Board of Commissioners shall find the following:
  - a. That the proposed space limits of the plan and the siting of buildings will be in the public interest; in harmony with the purposes of this Ordinance and will not adversely affect nearby properties.
  - b. That the overall density of development and the proportion of units allowed will not adversely affect nearby properties.
  - c. That an amount of open space will be provided in harmony with nearby properties.

**Sec. 17.110.07. Miscellaneous Provisions Planned Unit Development Zone.**

1. Off-street parking shall be provided for all uses established in this zone.
2. The entire planned unit development may be considered as one parcel in the design of the project.

**Sec. 17.111. CB “Central Business District.”**

**Sec. 17.111.01. Purpose and Intent.**

This district is intended to provide a core business zone which will take into account the special characteristics of the Central Business District, including the orientation to pedestrian traffic rather than vehicular traffic.

**Sec. 17.111.02. Principal Permitted Uses.**

1. Retail and Wholesale sales.
2. Bakery.
3. Finance, insurance and real estate services.
4. Personal service establishments.
5. Drug store.
6. Eating and drinking establishments.
7. Flower shop and garden supply including nursery stock.
8. Grocery, supermarket.
9. Hardware, appliance, and small tool rental when incidental to a hardware or other business.

10. Meat market, retail, but no killing, eviscerating, skinning, plucking or smoking of food products on the premises.
11. Paint, wallpaper, drapery and floor covering store.
12. Professional, governmental and education services.
13. Television, radio and small appliance repair.
14. Liquor stores.
15. Commercial or Private Storage.
16. Motels, hotels.
17. Offices.
18. Commercial parking lots.
19. Flea markets/pawn shops.
20. Pet shops.
21. Printing and publishing establishments.
22. Radio and television stations
23. Bar or Tavern.
24. Theater.
25. Upholstery shops.
26. Multiple family residential dwellings constructed to the applicable standards of the R-20 District (17.3100-17.3104), mixed business and apartment buildings constructed to one dwelling unit per one thousand (1,000) square feet of lot area.

**Sec. 17.111.03. Permitted Accessory Uses.**

1. Accessory buildings and uses customarily incidental to permitted uses.

**Sec. 17.111.04. Conditional Uses.**

1. Churches, synagogues, chapels and similar places of religious worship and instruction of a quiet nature when located in a substantial structure when located outside the downtown parking zone.
2. Auditoriums, meeting halls, and recreational facilities.

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- 3. Clinics.
- 4. Warehouses.
- 5. Automobile sales and service stations.
- 6. Car wash.
- 7. Storage services.
- 8. Contractors.
- 9. Mortuaries, funeral homes and funeral chapels.
- 10. Lumberyard.
- 11. Day care center, commercial.
- 12. Vertical axis wind turbines (See Sec. 17.319)  
(Ord. No. 1491, 5-3-10)

**Sec. 17.111.05. Area/Construction Regulations.**

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height
Commercial Uses	<i>no minimum</i>	<i>none</i>	45'
Mixed Commercial and Residential Uses	<i>no minimum</i>	<i>none</i>	45'
Residential Uses	10,000 square feet	<i>none</i>	45'
Conditional Uses	To be determined by the Board of Adjustment		

	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard
Mixed Commercial and Residential Uses	<i>none</i>	10'	<i>none</i>
Other Permitted Uses	<i>none</i>	<i>none</i>	<i>none</i>
Conditional Uses	To be determined by the Board of Adjustment		

**Sec. 17.112. GB “General Business District.”**

**Sec. 17.112.01. Purpose and Intent.**

This district is intended to provide a general business zone which will promote the clustering of a wide range of commercial uses that serve the City of Madison and surrounding area but may not necessarily be specifically oriented to pedestrian traffic.

**Sec. 17.112.02. Principal Permitted Uses.**

1. Retail and Wholesale sales.
2. Bakery.
3. Finance, insurance and real estate services.
4. Personal service establishments.
5. Drug store.
6. Eating and drinking establishments.
7. Flower shop and garden supply including nursery stock.
8. Grocery, supermarket.
9. Hardware, appliance, and small tool rental when incidental to a hardware or other business.
10. Meat market, retail, but no killing, eviscerating, skinning, plucking or smoking of food products on the premises.
11. Paint, wallpaper, drapery and floor covering store.
12. Professional, governmental and education services.
13. Television, radio and small appliance repair.
14. Liquor stores.
15. Commercial or Private Storage.
16. Motels, hotels.
17. Offices.
18. Commercial parking lots.
19. Flea markets/pawn shops.
20. Pet shops.

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21. Printing and Publishing Establishments.

22. Radio and television stations.

23. Bar or Tavern.

24. Theater.

25. Upholstery shops.

**Sec. 17.112.03. Permitted Accessory Uses.**

1. Accessory buildings and uses customarily incidental to permitted uses.

**Sec. 17.112.04. Conditional Uses.**

1. Churches, synagogues, chapels and similar places of religious worship and instruction of a quiet nature when located in a substantial structure when located outside the downtown parking zone.

2. Auditoriums, meeting halls, and recreational facilities.

3. Clinics.

4. Warehouses.

5. Automobile sales and service stations.

6. Car wash.

7. Storage services.

8. Contractors.

9. Mortuaries, funeral homes and funeral chapels.

10. Lumberyard.

11. Day care center, commercial.

12. Vertical axis wind turbines (See Section 17.319).  
(Ord. No. 1491, 5-3-10)

**Sec. 17.112.05. Area/Construction Regulations.**

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	10,000 square feet	100'	25'	70%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard	Minimum Front Yard (Multiple Frontage)		Minimum Rear Yard	Minimum Side Yard
		At least one (1) front yard	All other front yards		
Permitted Uses	30'	30'	15'	20'	20'
Conditional Uses	To be determined by the Board of Adjustment				

**Sec. 17.113. HB Highway Business Zone.**

**Sec. 17.113.01. Purpose and Intent.**

This district is intended to permit the development of highway service centers and regional employment centers in appropriate locations along major streets and highways for highway and automobile-related retail and service establishments in locations which will not cause undue traffic congestion.

**Sec. 17.113.02. Principal Permitted Uses.**

1. Automobile sales, service stations and parking garages.
2. Wholesale and Retail sales of: farm and garden supplies, fuel and ice, automobile equipment, drugs, chemicals, all allied products, dry goods and apparel; groceries and related products.
3. Motels and hotels
4. Eating establishments
5. Offices
6. Professional, governmental, and education services.
7. Personal service establishments

**Sec. 17.113.03. Permitted Accessory Uses.**

1. Accessory buildings and uses customarily incidental to permitted uses.

**Sec. 17.113.04. Conditional Uses.**

1. Wholesale and Retail sales of: lumber and other building/construction materials, farm equipment, motor vehicles, marine crafts, mobile homes, trailers, electrical goods, hardware, plumbing and heating equipment and supplies; machinery, beer, wine, distilled alcoholic beverages, paper and paper products, furniture and home furnishings.
2. Automatic or semi-automatic car wash.
3. Theater.
4. Bar or tavern.
5. Truck or bus terminal.
6. Bottling works.
7. Grain elevators and terminal.
8. Apartments.
9. Finance, insurance and real estate services.
10. Day care center, commercial.
11. Churches.
12. Light manufacturing and repair.
13. Resource recovery/solid waste transfer station facilities.
14. Veterinary Clinic.
15. Warehousing and storage services.
16. Bowling Alley.
17. Theater.
18. Recreational vehicle sales and camping.
19. Clinic.
20. Contractor.
21. Rental of automobiles, recreational vehicles, commercial, industrial, and construction equipment

22. Mortuaries, funeral homes and funeral chapels.

23. Adult Uses (See Section 17.37).

24. Vertical axis wind turbines (See Section 17.319).

**Sec. 17.113.05. Area/Construction Regulations.**

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height
Permitted Uses	20,000 square feet	100'	35'
Conditional Uses	To be determined by the Board of Adjustment		

	Minimum Front Yard	Minimum Front Yard (Multiple Frontage)		Minimum Rear Yard	Minimum Side Yard
		At least one (1) front yard	All other front yards		
Permitted Uses	35'	35'	30'	30'	20'
Conditional Uses	To be determined by the Board of Adjustment				

**Sec. 17.113.06. Miscellaneous Provisions.**

See Section 17.34 “Off Street Parking.”

**Sec. 17.113.07. Exception to Minimum Side Yard Requirement.**

Strip malls and shopping centers in which single units within a multi-unit commercial/retail structure with common elements share a common/party wall the minimum side yard may be reduced to zero (0) feet on the party wall side by the Board of Adjustment.

**Sec. 17.114. NB Neighborhood Business District.**

**Sec. 17.114.01. Purpose and Intent.**

This district is intended to provide for neighborhood local retail and service uses that serve the day-to-day needs of residents in convenient and appropriate locations.

**Sec. 17.114.02. Principal Permitted Uses.**

1. Retail sales of items including but not limited to: groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.

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2. Automobile parking lot or storage or parking garage.
3. Finance, insurance, and real estate services.
4. Clothing alteration, tailoring, shoe repairing, repair of household appliances and bicycles, catering, and bakery with sale of bakery products on the premises, and other uses of a similar character.
5. Mortuary.
6. Office or office building.
7. Personal services.
8. Eating establishment.

**Sec. 17.114.03. Permitted Accessory Uses.**

1. Accessory uses and structures customarily incidental to permitted uses.

**Sec. 17.114.04. Conditional Uses.**

1. Automatic or semi-automatic car wash.
2. Automobile parts and service stations.
3. General service and repair establishments, including dyeing or cleaning works or laundry, plumbing and heating, printing, painting, upholstering or appliance repair.
4. Hotel and motel.
5. Bar or tavern.
6. Day care center, commercial.
7. Convenience stores.
8. Resource recovery/solid waste transfer station facilities.
9. Churches, synagogues, chapels and similar places of religious worship and instruction of a quiet nature when located in a substantial structure.
10. Clinics.
11. Storage services.

**Sec. 17.114.05. Area/Construction Regulations.**

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	10,000 square feet	100'	25'	70%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard	Minimum Front Yard (Multiple Frontage)		Minimum Rear Yard	Minimum Side Yard
		At least one (1) front yard	All other front yards		
Permitted Uses	30'	30'	15'	20'	20'
Conditional Uses	To be determined by the Board of Adjustment				

**Sec. 17.114.06. Miscellaneous Provisions.**

1. Off-street parking and loading shall be provided for all [buildings] established in this zone.
2. Notwithstanding the provisions of Section 17.122 of this ordinance, no business building shall be constructed on a parcel occupied by a residence.

**Sec. 17.114.07. Exception to Minimum Side Yard Requirement.**

Strip malls and shopping centers in which single units within a multi-unit commercial/retail structure with common elements share a common/party wall the minimum side yard may be reduced to zero (0) feet on the party wall side by the Board of Adjustment.

**Sec. 17.115. MU-R “Mixed Use – Residential Emphasis District.”**

**Sec. 17.115.01. Purpose and Intent.**

The intent of the “MU-R” district is to stabilize and protect the characteristics of medium density residential areas by allowing a mix of medium density residential uses with commercial uses providing specified goods and personal services in close proximity to Dakota State University. Permitted uses shall encourage medium density residential uses. High density residential and commercial service uses may be permitted where the residential characteristics of the neighborhood, density of development, and sustainable pedestrian and transportation systems are given consideration.

**Sec. 17.115.02. Permitted Uses.**

The following uses and structures shall be permitted in the “MU-R” Mixed Use District.

1. Site built single-family dwellings.

2. Modular homes.
3. Two-family dwellings.
4. Multiple-family dwelling with not more than four (4) dwelling units.
5. Public, parochial and private schools and colleges offering courses of general instruction when located on sites of at least five acres, and including convents, monasteries, dormitories and other related living structures when located on the same site as the school or college.
6. Churches, synagogues, chapels and similar places of religious worship and instruction of a quiet nature when located in a substantial structure.

**Sec. 17.115.03. Permitted Accessory Uses.**

The following accessory uses and structures shall be permitted in the “MU-R” Mixed Use District unless such use is specifically enumerated as requiring a conditional use permit.

1. Accessory uses and structures customarily incidental to permitted uses.

**Sec. 17.115.04. Conditional Uses.**

The following uses may be permitted as a conditional use in the “MU-R” Mixed Use District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Personal services.
2. Multiple-family dwelling with more than four (4) or more units (apartments, town houses, and group row houses).
3. Clinics.
4. Offices.
5. Utility substations when located according to the yard space rules set forth for dwellings and having a landscaped or a masonry barrier on all sides, and after a showing before the Board of Adjustment that technical considerations necessary to the functioning of said utility requires the location of the facility in a residential zone. Structures shall conform with all space limits of the zone in which located and shall have an exterior design in harmony with nearby properties.
6. Public park and recreation facilities.
7. Public and quasi-public buildings.

- 8. Meeting/Banquet Halls.
- 9. Bed and Breakfast.
- 10. Eating and drinking places.
- 11. Landscaped/screened parking lots.
- 12. Home Occupations.
- 13. Fraternity and sorority houses when directly associated with a college or university.
- 14. Day care centers.
- 15. Day care center, commercial.

**Sec. 17.115.05. Area Regulations.**

- 1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	10,000 square feet	75'	35'	30%
Two Dwelling Units	3,500 square feet/dwelling unit	75'	35'	30%
Three to Four Dwelling Units	3,000 square feet/dwelling unit	75'	35'	30%
Greater than 4 Dwelling Units	2,500 square feet/dwelling unit	75'	45'	30%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard*	Minimum Front Yard (Multiple Frontage)		Minimum Rear Yard	Minimum Side Yard	
		If one (1) Front Yard is greater than 30'	If all Front Yards are less than 30'		Party Wall Side	Non-Party Wall Side
Single Family Residential	25'	15'	25'	15'	0'	7.5'
Two Dwelling Units	25'	15'	25'	15'	0'	7.5'
Three to Four Dwelling Units	25'	15'	25'	15'	0'	7.5'
Greater than 4 Dwelling Units	25'	15'	25'	15'	0'	7.5'
Conditional Uses	To be determined by the Board of Adjustment					

\*Thirty (30) is the minimum required front yard for corner lots

**Sec. 17.116. ML “Light Manufacturing District.”**

**Sec. 17.116.01. Purpose and Intent.**

This district provides for a wide range of commercial and industrial uses, 0 of which shall be able comparatively to meet specifications as to nuisance free performance. The zone specifically

excludes residences on the theory that the mixture of residential use, and the public services and facilities for residences with those for industry is contrary to the purposes of these regulations irrespective of whether the industry is encroaching on a living area or a living area is encroaching on an industrial area.

**Sec. 17.116.02. Principal Permitted Uses.**

1. Horticulture and the raising of field crops.
2. Utility Substations.
3. Storage plants, distributing stations and warehouses.
4. Motor freight terminals, garaging and equipment maintenance.
5. Retail sale of products produced on site and associated products.
6. Storage Services.

**Sec. 17.116.03. Specifically Excluded Uses.**

1. The following uses are hereby declared incompatible with the purpose of the ML District and are hereby expressly excluded:
  - a. Dwelling except caretaker and watchmen's quarters as set forth herein.
  - b. Public, parochial and private schools and colleges, except trade schools.
  - c. Hospitals, clinics, rest homes and other institutions for the housing or care of human beings.
  - d. Motels, hotels, and mobile home parks.
  - e. Any use not enumerated as permitted in this zone but which is specifically provided for in another more restrictive districts(s).

**Sec. 17.116.04. Permitted Accessory Uses.**

1. Buildings and uses customarily incidental to permitted and conditional uses listed herein.
2. Quarters for a watchman or caretaker shall be permitted as an accessory use for any permitted use occupying more than twenty thousand (20,000) square feet of lot area.

**Sec. 17.116.05. Conditional Uses.**

1. Recreational uses which are temporary in nature and do not involve any appreciable amount of fixed construction and which will not interfere with the efficient functioning of the zone for its primary purpose of providing for manufacturing and heavy commercial establishments, may be allowed only upon appeal to the Board of Adjustment.

2. Resource recovery/solid waste transfer station facilities.
3. Junk or salvage yards provided that the area is enclosed or screened from public view as required by the Board of Adjustment.
4. Contractor shops and yards.
5. Food manufacturing plants.
6. Grain elevators and feed mills.
7. Automotive body repair.
8. Public and Private utility shops and yards.
9. Public and quasi-public facilities.
10. Retail sales and repair of agricultural/industrial machinery and supplies.
11. Lumberyard.
12. Airport.
13. Other industrial or commercial uses determined by the Board of Adjustment to be consistent with the intent of the District that can meet the performance standards listed herein.
14. Vertical axis wind turbines (See Section 17.319).
15. Small Wind Energy Conversion Systems (See Section 17.319).  
(Ord. No. 1491, 5-3-10)

**Sec. 17.116.06. Performance Standards.**

1. *Physical Appearance:* All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes or similar equipment when in operable condition.
2. *Fire Hazard:* No operations shall involve the use of highly flammable gasses, acid, liquors, grinding processes or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other Ordinances of the City of Madison.
3. *Noise:* No operation shall be carried on which involves noise in excess of normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be

measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdown into a reasonable number of frequency ranges. All noise shall be muffled so as to not be objectionable due to intermittence, beat frequency or shrillness.

4. *Sewage and Liquid Wastes:* No operation shall be carried on which involves the discharge into a sewer, water course or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
5. *Air Contaminants:*
  - a. Air contaminants and smoke shall be less dark than designated Number One on the Ringelmann Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four (4) minute period in each one-half hour. Light colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
  - b. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four (4) minutes in any one-half hour, at which time it may equal but not exceed six tenths grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit.
  - c. Due to the fact that possibilities of air contaminants cannot reasonably be comprehensively covered in this section there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety of any such considerable number of persons or the general public or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.
6. *Odor.* The emissions of odors that are generally agreed to be obnoxious to any considerable number of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Ordinance.
7. *Gases:* The gases sulphur dioxide and hydrogen sulphide shall not exceed five (5) parts per million, carbon monoxide shall not exceed five (5) parts per million. All measurements shall be taken at the parcel line.
8. *Vibration:* All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (0.003) of an inch measured at the parcel line. The use of steam or broad hammers shall not be permitted in this zone.

9. *Glare and Heat:* AU glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the parcel line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

**Sec. 17.116.07. Area/Construction Regulations.**

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	43,560 square feet	150'	none	75%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard	Minimum Front Yard (multiple frontage)		Minimum Rear Yard	Minimum Side Yard
		At least one (1) front yard	All other front yards		
Permitted Uses	50'	50'	35'	30'	25'
Conditional Uses	To be determined by the Board of Adjustment				

**Sec. 17.116.08. Miscellaneous Provisions.**

1. Off-street parking and loading shall be provided for all uses established in this zone.

**Sec. 17.117. MH Heavy Manufacturing District.**

**Sec. 17.117.01. Purpose and Intent.**

This district provides for the widest range of industrial operations permitted in the City. It is the zone for location of those industries which have not reached a technical stage in processing which renders them free of nuisance factors or where economics precludes construction and operation in a nuisance free manner.

**Sec. 17.117.02. Principal Permitted Uses.**

1. Any use permitted in the ML District (17.116.02)
2. Trucking terminals containing in excess of four (4) loading or transfer bays.

**Sec. 17.117.03. Specifically Excluded Uses.**

1. The following uses are hereby declared incompatible with the purpose of the MH Zone and are hereby expressly excluded:

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- a. Any use which cannot meet the performance standards set forth herein.
- b. Dwellings except caretaker and watchman's quarters as set forth in the provisions of the ML District (17.115.04.2).
- c. Schools and colleges, except trade schools.
- d. Hospitals, clinics, rest homes and other institutions for the housing or care of human beings, except that medical facilities accessory to any industrial operation shall be permitted.
- e. Motels, hotels and mobile home parks.

**Sec. 17.117.04. Permitted Accessory Uses.**

1. Any accessory use normally appurtenant to a permitted use shall be allowed provided such use shall conform with all performance standards set forth for this zone.

**Sec. 17.117.05. Conditional Uses.**

1. Any use enumerated as a conditional use in the ML Zone.
2. Resource recovery/solid waste transfer station facilities.
3. The storage above ground of liquid petroleum products or chemicals of a flammable or noxious nature when more than one hundred fifty thousand (150,000) gallons are stored on one parcel of less than one acre in size or when more than 25,000 gallons are stored in one tank.
4. The storage of flammable or noxious gasses above or below ground in excess of five million (5,000,000) cubic feet on any one parcel of less than one acre or two million (2,000,000) cubic feet in any one tank.
5. Meat packing, slaughtering, evisceration and skinning.
6. Poultry killing, plucking and dressing when such operations are of such size as to employ in excess of three (3) persons.
7. Yards for the sale, transfer and temporary holding of livestock.
8. Rendering of by-products or slaughtering and killing of animals and poultry.
9. Junk yards, auto parts salvage and auto wrecking yards when such operations are obscured from any street or from any adjacent property in another zone by a sturdy sight obscuring fence in good repair, and under the condition that any burning operations be carried on in any enclosed structure provided with such super-heating devices to assure complete combustion as may be approved by the Administrative Official.
10. Any use which can meet the performance standards for this zone, except those specifically prohibited by 17.116.03.
11. Vertical axis wind turbines (See Section 17.319).

12. Small Wind Energy Conversion Systems (See Section 17.319).  
(Ord. No. 1491, 5-3-10)

**Sec. 17.117.06. Performance Standards.**

1. *Appearance:* Junk, salvage, auto wrecking and similar operations shall be shielded from view from streets and from adjacent properties in another zone by means of a sturdy, sight obscuring fence in good repair.
2. *Fire Hazard:* All flammable substances involved in any activity established in this zone shall be handled in conformance with the standards of the National Board of Fire Underwriters and any additional regulations of the City.
3. *Noise:* All noises and noise causing activities shall be muffled so that they will not create a disturbance greater than the normal peak hour traffic noise of a major street when observed from any area zoned residential. Major street noise for comparison purposes shall be measured at the primary state highway nearest the industry.
4. *Sewage and Liquid Wastes:* No operation shall be carried on which involves the discharge into a sewer, water course or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
5. *Air Contaminants:*
  - a. Air contaminants and smoke shall be less dark than designated Number 2 on the Ringelmann Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number 2 shall be permitted for one four (4) minute period in each one-half hour. Light colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
  - b. Particulate matter or dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit.
  - c. Due to the fact that possibilities of air contamination cannot be comprehensively covered in this section there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other materials in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety of any such considerable number of persons or the general public or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.
6. *Odor:* Odor causing operations shall be controlled so as to reduce escape of odors to the minimum practical within the limits of technology and economics.
7. *Gases:* All noxious gases shall be controlled to the extent that they will not be injurious to life and property. The gasses sulphur dioxide and hydrogen sulphide shall not exceed five (5) parts per million, carbon monoxide shall not exceed twenty-five (25) parts per million, and nitrous fumes shall not exceed five (5) parts per million. All measurements shall be made at the parcel line.

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8. *Vibration:* All machines including punch presses and stamping machines shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby parcels.

**Sec. 17.117.07. Area/Construction Regulations.**

Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	43,560 square feet	150'	none	75%
Conditional Uses	To be determined by the Board of Adjustment			

	Minimum Front Yard	Minimum Front Yard (multiple frontage)		Minimum Rear Yard	Minimum Side Yard
		At least one (1) front yard	All other front yards		
Permitted Uses	50'	50'	35'	30'	25'
Conditional Uses	To be determined by the Board of Adjustment				

**Sec. 17.117.08. Miscellaneous Provisions.**

Off-street parking and loading shall be provided for all uses established in this zone.

**Sec. 17.118. WS Water Source Protection Overlay District.**

**Sec. 17.118.01. Description.**

The Water Source Protection Overlay District is an overlay district consisting of two separate protection areas, known as: the Water Source Protection Area - Zone 1, and Water Source Protection Area - Zone 2 as shown on the Water Source Protection Overlay District map of the City of Madison. The official map shall be on file at the City Finance Office.

**Sec. 17.118.02. Purpose and Intent.**

The City of Madison recognizes that aquifer systems and associated drainage basins are its primary source of high quality, potable drinking water and must be protected from leaks and spills or threatened leaks or spills of contaminants in such quantities as may result in adverse effects to water sources by establishing a comprehensive water source protection plan. Pursuant to the authority provided by South Dakota statute, and in the interest of securing the public health, safety, and general welfare, the City of Madison desires to preserve the quality and quantity of the City's water resources, and to ensure a safe and adequate water supply for present and future generations by preserving and protecting water resources currently in use, and those having a potential for future use as a public water supply, while at the same time continuing to foster and promote reasonable and environmentally responsible economic growth.

The purpose of these regulations is to ensure the safety of the potable water supply for the City of Madison. This Ordinance will establish procedures and criteria for reviewing and restricting land uses which have the potential to pollute water sources in designated water source protection zones.

**Sec. 17.118.03. Water Source Protection District Use Regulations:**

Any activity on, or use of, any land which lies within the Water Source Protection Overlay District shall conform to the following regulations and procedures. The purpose of these regulations is to maintain the natural quality of the water resources and to that end, to require the use of all available practical methods of preventing and controlling water pollution from sewage, industrial wastes, and other contaminants.

1. Definitions

Zone A - Zone A, the well-head protection area, is the mapped zone of contribution around all public water supply wells or well-fields in shallow/surficial aquifers and includes land upgradient from the well or well-field to the ten year time of travel boundary. Zone A is identified on the Water Source Protection Overlay District Map.

Zone B - Zone B is the remainder of the mapped shallow/surficial aquifer in the County not included in Zone A. Zone B also includes any delineated lands adjacent to Zone A not underlain by the shallow aquifer but with sufficient slope water could flow directly onto Zone A. Zone B is identified on the Water Source Protection Overlay District Map.

2. Permitted Uses in Zone A and Zone B.

The same as underlying zoning district uses may be allowed, provided they meet the conditions described herein.

3. Prohibited Uses in Zone A and Zone B.

a. Sanitary landfills, feedlots and salvage yards shall not be permitted in Agricultural Districts.

b. Septic Systems

4. All areas within the Water Source Protection Overlay District which are annexed to the City after the effective date of this Ordinance shall be connected to the Madison sanitary sewer system at the time of development. If surface features or other conditions prohibit connection to the Madison sanitary sewer system, a closed waste system, such as a holding tank or system just as effective, as determined by the Administrative Official or his/her authorized representative, shall be installed.

5. No use shall be allowed in any zone which utilizes a surface impoundment or any underground injection well.

6. Review Procedure.

Permits for new uses or changes in existing uses shall be required to meet all other City requirements including, but not limited to, requirements for underground storage tanks, sewer

discharge permits, and storage of contaminants or hazardous materials. These new uses or changes in use, as well as any new developments, or any changes from current uses which are within the Water Source Protection Overlay District, will be reviewed by the Administrative Official, except for residential uses which are connected to the Madison sanitary sewer system.

This review process shall be completed prior to the issuance of a building permit. Issuance of the permit does not relieve the applicant of compliance with all local, state and federal laws. The review by the Administrative Official shall involve an analysis of each proposal, including, but not limited to:

- a. Description of the proposed activity, use, or development, including information and technical data and complete blueprints.
  - b. The quality, quantity, concentration, physical, chemical, or infectious characteristics of contaminants or hazardous material to be stored or used on the property or premises.
  - c. Provide complete description, plans, and specifications of primary and secondary containment facilities including provisions for leak/spill detection and monitoring.
  - d. The adverse effects of contaminants or hazardous materials, including the probability that any leak or spill would contaminate groundwater.
  - e. Submission of a completed contingency plan for waste spills.
  - f. Plans for pretreatment of industrial waste to be released into sanitary sewer system as specified in the Ordinance Book, City of Madison, Chapter 22 - Water, Sewers, and Sewage Disposal.
  - g. Compliance with other City, State, or Federal regulations.
  - h. Any other information as may be deemed necessary by the Administrative Official.
7. Rejection and Appeal.  
The Administrative Official may deny any proposed uses or developments which have the potential to pollute water sources in the overlay district. Decisions of the Administrative Official may be appealed to the Board of Adjustment.

**Sec. 17.119. “WR” Water Retention/Conveyance Overlay District.**

**Sec. 17.119.01. Purpose and Intent.**

It is the purpose and intent of the Madison City Commission and Madison Planning Commission to establish a district which reserves an area to maintain its current level of development for the purpose of providing an area for potential inundation due to on site storage of stormwater. Only those properties identified by the City of Madison Comprehensive Plan or other ancillary studies may be included in this district.

**Sec. 17.119.02. Establishment/Delineation/Regulation of the “WR” Water Retention/Conveyance Overlay District.**

Boundaries for the “WR” Water Retention/Conveyance Overlay District are shown on the Water Retention/Conveyance Overlay District Map as referenced in Chapter 17.02.01. The Water Retention/Conveyance Overlay District Map is hereby adopted by reference as part of these regulations as if the map was fully described herein.

**Sec. 17.119.03. Applicability.**

The provisions of this Chapter shall apply to any project on a lot or parcel in the “WR” District as described herein.

Where the provisions of §17.118 conflict with other provisions of this Title, the provisions of §17.118 shall prevail.

Standards, uses, and regulations not addressed in §17.118 shall be regulated as defined elsewhere in this Title.

**Sec. 17.119.04. Uses.**

## 1. Permitted Uses:

- a. Horticulture and the raising of field crops

## 2. Conditional Uses:

- a. Accessory uses and structures customarily incidental to permitted uses.
- b. Public parks and recreation areas.
- c. Reservoirs

## 3. Prohibited Uses:

Any structure not associated with a use listed as either a permitted use or conditional use in Section 17.123.04 shall be prohibited.

**Sec. 17.119.05. Standards.**

## 1. Area Regulations

Area regulations shall be regulated in accordance with the area regulations for the underlying district.

**Sec. 17.120. “AP” - Airport District.**

**Sec. 17.120.01. Purpose and Intent.**

This zone is designed to provide for airports, heliports, and landing areas for other types of aircraft.

**Sec. 17.120.02. Principal Permitted Uses Airport Zone.**

1. Any principal permitted use in the primary zone to which the AP-Airport overlay district classification is applied.
2. Activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft, including airplanes, helicopters, and other types of aircraft. These provisions shall apply to private, commercial and all other types of ownership.

**Sec. 17.120.03. Permitted Accessory Uses Airport Overlay District.**

1. Any permitted accessory use allowed in the primary zone to which the AP-overlay district classification is applied.
2. Facilities accessory to the normal and continual operation of a landing field, but not to include general repair depots and other commercial and industrial operations not normally found at all such landing fields unless permitted in the primary zone.

**Sec. 17.120.04. Conditional Uses Airport Overlay District.**

1. Same as primary zone.

**Sec. 17.120.05. Space Limits Airport Overlay District.**

1. Same as primary zone.

**Sec. 17.120.06. Procedure Airport Zone.**

1. When a property owner wishes to develop a landing field he may apply for a zoning change to an AP-Airport Overlay District. Said zoning change shall be an amendment to the zoning map and shall follow all procedural requirements for such changes set forth herein.

**Sec. 17.121. "AZ" Airport Safety Zone Overlay District.****Sec. 17.121.01. Description.**

The "AZ" Aviation Safety Zone Overlay District is an overlay district consisting of three separate protection zones, known as: the Runway Protection Zone (RPZ) – Safety Zone 1, Inner Approach/Departure Corridors – Safety Zone 2, and Inner Turning Area – Safety Zone 3 as shown on the Safety Compatibility Zones map of the City of Madison. The official map shall be on file at the City Finance Office.

**Sec. 17.121.02. Purpose and Intent.**

The purpose of the “AZ” Aviation Safety Zone Overlay District is to minimize potential risk for endangering the lives and property of users of the Madison Municipal Airport, and property or occupants of land in its vicinity. The City of Madison recognizes that to promote the health, safety, and general welfare of the community, certain uses and building heights are incompatible within specified proximities of Madison Municipal Airport.

**Sec. 17.121.03. Safety Zone 1.**

Safety Zone 1 is comprised of the Runway Protection Zones for each of Madison Municipal Airport’s two runways.

1. Permitted Uses:
  - a. Aviation related structures, aviation-related services, and support facilities provided there are no assemblages of people for any purpose or duration of time.
  - b. Other structures set by aeronautical function.
2. Accessory Uses:
  - a. Accessory uses and structures customarily incidental to permitted uses.
3. Prohibited Uses:
  - a. All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in Safety Zone 1.
  - b. No assemblages of people for any purpose or duration of time shall be permitted in Safety Zone 1.

**Sec. 17.121.04. Safety Zone 2.**

Safety Zone 2 encompasses the runways and inner approach and departure corridors.

1. Permitted Special Uses:
  - a. Uses permitted in Safety Zone 2 include those permitted in the underlying district which each respective parcel is located as listed in Section 17.119.04.3 Prohibited Uses. Subject to:
    - i. Structures are located the maximum distance from extended runway centerlines.
    - ii. No critical community infrastructure facilities are placed in Safety Zone 2.
    - iii. Avigation easement dedication.

2. Accessory Uses:
  - a. Accessory uses and structures customarily incidental to permitted uses.
3. Prohibited Uses:
  - a. Children's schools, day care centers, libraries.
  - b. Nursing homes, churches, hospitals.
  - c. Hazardous materials storage.
  - d. Hazards to flight.
  - e. Highly noise sensitive outdoor uses.
  - f. Above ground bulk storage of hazardous materials.
4. Space Limits:
  - a. Further subdivision in underlying Agricultural Districts shall be prohibited.
  - b. Residential subdivision in all other underlying Districts shall be limited to one (1) dwelling unit per ten (10) acres.

**Sec. 17.121.05. Safety Zone 3.**

Safety Zone 3 encompasses the inner turning areas where small aircraft turn either inward toward the runway and descend for landing or outward from the runway on takeoff as they begin to climb to pattern altitude or en route to cruise altitude.

1. Permitted Special Uses:
  - i. Uses permitted in Safety Zone 3 include those permitted in the underlying district which each respective parcel is located accept as listed in Section 17.119.05.3 Prohibited Uses. Subject to:
    1. No critical community infrastructure facilities are placed in Safety Zone 3.
    2. Avigation easement dedication.
2. Accessory Uses:
  - a. Accessory uses and structures customarily incidental to permitted uses.
3. Prohibited Uses:
  - i. Children's schools, day care centers, libraries.

- ii. Nursing homes, churches, hospitals.
  - iii. Hazardous materials storage.
  - iv. Hazards to flight.
  - v. Highly noise sensitive outdoor uses.
  - f. Above ground bulk storage of hazardous materials.
5. Space Limits:
- a. Further subdivision in underlying Agricultural Districts shall be prohibited.
  - b. Residential subdivision in all other underlying Districts shall be limited to one (1) dwelling unit per two (2) acres.

**Sec. 17.121.06. Height Restrictions.**

Notwithstanding height restrictions specified for any specific zone set forth herein, no building, structure, vegetation, or use of land shall be constructed or permitted to grow to a height exceeding the limits indicated on the zoning district maps entitled “Airport Approach and Turning Zone” which are a part of this Ordinance, or may hereafter be adopted as a part of this Ordinance.

**Sec. 17.122. “GT-1” Gateway Overlay District.**

**Sec. 17.122.01. Purpose and Intent.**

It is the purpose and intent of the Madison City Commission and Madison Planning Commission to establish a district with certain design standards for property visible within designated corridors at key entry points to the city. The Madison City Commission and Madison Planning Commission have identified those corridors as US Highway 81, SD Highway 34, and Highland Ave (East/West).

**Sec. 17.122.02. Establishment/Delineation/Regulation of the GT-1 Gateway Overlay District.**

Boundaries for the GT-1 Gateway Overlay District are shown on the GT-1 Gateway Overlay District Map as referenced in Chapter 17.02.01. The GT-1 Gateway Overlay District Map is hereby adopted by reference as part of these regulations as if the map was fully described herein.

The GT-1 Gateway Overlay District may be expanded to include additional urban corridors or lots within one thousand three hundred and twenty (1,320) feet of the above described corridors by recommendation of the Planning Commission and action of the City Commission.

Any proposed project within the GT-1 Gateway Overlay District which is denied by the Building Official or Planning Commission may be appealed to the Board of Adjustment.

**Sec. 17.122.03. Applicability.**

The provisions of this Chapter shall apply to any project on a lot or parcel in the GT-1 Gateway District as described herein.

Where the provisions of §17.121 conflict with other provisions of this Title, the provisions of §17.121 shall prevail.

Standards, uses, and regulations not addressed in §17.121 shall be regulated as defined elsewhere in this Title.

**Sec. 17.122.04. Uses.**

## 1. Permitted Uses:

Uses permitted in the GT-1 Gateway Overlay District include those permitted in the underlying district which each respective lot is located.

## 2. Conditional Uses:

Uses permitted by conditional use in the GT-1 Gateway Overlay District include those permitted by conditional use in the underlying district which each respective lot is located.

**Sec. 17.122.05. Standards.**

## 1. Setbacks

The minimum required front yard setback(s) for primary structures adjacent to SD Highway 34 and US Highway 81 shall be fifty (50) feet.

## 2. Access to Corridors

Access to the following corridors will be regulated as follows:

## a. SD Highway 34

As approved by the South Dakota Department of Transportation.

## b. US Highway 81

As approved by the South Dakota Department of Transportation.

## 3. Parking and Loading

a. Loading berths and doors facing required side or rear yards may be subject to screening or concealing from view from the street.

b. Loading berths and doors facing required front yards:

i. shall not share a face with the main entrance of any building unless such berth(s) exists as of August 1, 2009; and

- ii. shall be the same color as the exterior wall finish of the structure; and
- iii. shall be screened or concealed from view from the street

#### 4. Sidewalk/Recreational Trail

Where a recreational trail is provided in lieu of a sidewalk for lots the property owner shall be responsible for the removal of snow in the same manner as required §18-74 through §18-78 of these ordinances for a portion of said recreational trail not less than four (4) feet eight (8) inches wide to extend the length of the property.

#### 5. Landscaping

a. There shall be a minimum width of twenty-five (25) feet of living ground cover adjacent to US Highway 81 and SD Highway 34. In the event that there is not twenty-five (25) feet of public right-of-way to be utilized for the planting of living ground cover, the difference shall be met by requiring the developer/owner of the property to provide the balance of the required twenty-five (25) feet of living ground cover on private property. The necessary surfacing of sidewalks and driveways may be allowed within the minimum width of twenty-five (25) feet of grass.

#### b. Perimeter Tree Requirements

- i. US Highway 81 and SD Highway 34  
For commercial, industrial and multi-family residential uses one (1) deciduous shade tree per forty (40) feet of frontage or one (1) deciduous ornamental tree per thirty (30) feet of frontage shall be provided adjacent to the right-of-way. Such trees shall be regularly spaced on private property.
- ii. No tree may be placed in the clear view triangle as described in 17.30. For the purpose of perimeter tree requirements total frontage will not include the area of the “clear view triangle,” or the area necessary for paving or driveways.

#### c. Interior Landscaping Requirements

When unenclosed interior parking spaces are provided for commercial, industrial and multi-family residential uses not less than two percent (2%) of the gross parking lot area shall be dedicated to landscaped area. Landscaped areas may consist of a combination of grasses, perennial forbes, shrubs, and shall include deciduous shade trees or deciduous ornamental trees.

- i. Where deciduous shade trees are used to meet the interior landscaping requirements one (1) tree per seven thousand (7,000) square feet of gross parking lot area shall be required.
- ii. Where deciduous ornamental trees or a combination of deciduous shade trees and deciduous ornamental trees are used to meet the interior landscaping requirements one (1) tree per five thousand (5,000) square feet of grass parking lot area shall be required.

- iii. In addition to the requirements for tree plantings in 17.316, planting islands should be placed on the south and west sides of buildings and parking lots to shade the parking surface from the summer sun.
- d. Transitional Yards
- i. Within any GT-1 Gateway Overlay District transitional yards will be required within side and rear yard setbacks on lots or parcels with commercial or industrial uses.
  - ii. The width of transitional yards shall be ten (10) feet.
  - iii. The transitional yards shall extend the entire length of each respective property boundary.
  - iv. The transitional yards shall be maintained with living ground cover.
  - v. Transitional yards are required in addition to screening requirements set forth within these ordinances.
  - vi. Property owners shall be ultimately responsible for the proper maintenance of all required landscape materials and the owner shall replace any dead or substantially damaged landscape materials.
6. Building Construction

All buildings and structures in the GT-1 Gateway Overlay District shall meet the following building design and construction standards:

- a. All exterior surfaces on any building or structure shall be earth-tone in color.
- b. All exterior walls facing any front or side yard setback shall be finished with the following materials, or a combination of the following materials:
  - i. Face brick;
  - ii. Natural stone;
  - iii. Pre-cast concrete panels or units, the surfaces of which have been integrally treated with an applied decorative material or texture;
  - iv. Stucco or similar cement based material;
  - v. Wood, consisting of horizontal lap siding or wood shakes; surfaces must be painted or finished;
  - vi. Decorative Block;
  - vii. Sheet siding provided the Board of Adjustment determines said siding is compatible with the neighborhood and the uses thereof meets, or including but not limited to, being used in conjunction with brick, other types of siding or other accessory material; or

- viii. Any similar material which meets the purposes for which these regulations are designed and intended, and are approved by the Building Official. A request for approval shall include:
    - a) A written description of the manner in which the proposed material promotes the purposes of this chapter of the ordinance;
    - b) A physical sample of all the proposed materials together with their technical specifications;
    - c) A color photograph of similar applications of the proposed material;
    - d) A sketch of the proposed construction showing the location of the proposed material; and
    - e) A written description explaining why approved materials described herein are not being considered.
  - c. Additions to principal structures which conform to the provisions of this Chapter and all accessory buildings or structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.
7. Other performance standards
- a. Because of the range of land uses permitted within the GT-1 Gateway Overlay District, other design standards may be considered for conditional uses, major amendments, or final development plans.
  - b. Any additional standards shall be designed to eliminate or offset potential negative impacts to the landscape of this district which may result from development.

**Sec. 17.123. “GT-2” Gateway Overlay District.**

**Sec. 17.123.01. Purpose and Intent.**

It is the purpose and intent of the Madison City Commission and Madison Planning Commission to establish a district with certain design standards for property visible within designated corridors at key entry points to the city. The Madison City Commission and Madison Planning Commission have identified those corridors as 3<sup>rd</sup> Street North/233<sup>rd</sup> Street, 234<sup>th</sup> Street (west of Highland Ave)/11<sup>th</sup> Street South, and Highland Ave (North/South).

**Sec. 17.123.02. Establishment/Delineation/Regulation of the GT-1 Gateway Overlay District.**

Boundaries for the GT-2 Gateway Overlay District are shown on the GT-2 Gateway Overlay District Map as referenced in Chapter 17.02.01. The GT-2 Gateway Overlay District Map is hereby adopted by reference as part of these regulations as if the map was fully described herein.

The GT-2 Gateway Overlay District may be expanded to include additional urban corridors or lots within one thousand three hundred (1,320) feet of the above described corridors by recommendation of the Planning Commission and action of the City Commission.

Any proposed project within the GT-2 Gateway Overlay District which is denied by the Building Official or Planning Commission may be appealed to the Board of Adjustment.

**Sec. 17.123.03. Applicability.**

The provisions of this Chapter shall apply to any project on a lot or parcel in the GT-2 Gateway District as described herein.

Where the provisions of §17.122 conflict with other provisions of this Title, the provisions of §17.122 shall prevail.

Standards, uses, and regulations not addressed in §17.122 shall be regulated as defined elsewhere in this Title.

**Sec. 17.123.04. Uses.**

1. Permitted Uses:

Uses permitted in the GT-2 Gateway Overlay District include those permitted in the underlying district which each respective lot is located.

2. Conditional Uses:

Uses permitted by conditional use in the GT-2 Gateway Overlay District include those permitted by conditional use in the underlying district which each respective lot is located.

**Sec. 17.123.05. Standards.**

1. Access to corridors

Access to the following corridors for commercial, industrial and multi-family residential uses shall be regulated as follows:

- a. 2<sup>nd</sup> Street North/233<sup>rd</sup> Street  
Minimum access spacing shall be two hundred (200) feet;
- b. 11<sup>th</sup> Street South/234<sup>th</sup> Street west of Highland Ave  
Minimum access spacing shall be two hundred (200) feet.

2. Parking and Loading

- a. Loading berths and doors facing required side or rear yards may be subject to screening or concealing from view from the street.
- b. Loading berths and doors facing required front yards:
  - i. shall not share a face with the main entrance of any building unless such berth(s) exists as of August 1, 2009; and
  - ii. shall be the same color as the exterior wall finish of the structure; and
  - iii. shall be screened or concealed from view from the street

### 3. Sidewalk/Recreational Trail

Where a recreational trail is provided in lieu of a sidewalk for lots the property owner shall be responsible for the removal of snow in the same manner as required §18-74 through §18-78 of these ordinances for a portion of said recreational trail not less than four (4) feet eight (8) inches wide to extend the length of the property.

### 4. Landscaping

a. There shall be a minimum width of fifteen (15) feet of living ground cover adjacent to 2<sup>nd</sup> Street North/233<sup>rd</sup> Street and 11<sup>th</sup> Street South/234<sup>th</sup> Street west of Highland Ave. In the event that there is not fifteen (15) feet of public right-of-way to be utilized for the planting of living ground cover, the difference shall be met by requiring the developer/owner of the property to provide the balance of the required fifteen (15) feet of living ground cover on private property. The necessary surfacing of sidewalks and driveways may be allowed within the minimum width of fifteen (15) feet of grass

#### b. Perimeter Tree Requirements

##### i. US Highway 81 and SD Highway 34

For commercial, industrial and multi-family residential uses one (1) deciduous ornamental or shade tree per forty (40) feet of frontage shall be provided adjacent to the right-of-way. Such trees shall be regularly spaced on private property.

ii. No tree may be placed in the clear view triangle as described in Section 17.30. For the purpose of perimeter tree requirements total frontage will not include the area of the “clear view triangle,” or the area necessary for paving or driveways.

#### c. Interior Landscaping Requirements

When unenclosed interior parking spaces are provided for commercial, industrial and multi-family residential uses not less than two percent (2%) of the gross parking lot area shall be dedicated to landscaped area. Landscaped areas may consist of a combination of grasses, perennial forbes, shrubs, and shall include deciduous shade trees or deciduous ornamental trees.

i. Where deciduous shade trees are used to meet the interior landscaping requirements tree per eight thousand five hundred (8,500) square feet of gross parking lot area shall be required

ii. Where deciduous ornamental trees or a combination of deciduous shade trees and deciduous ornamental trees are used to meet the interior landscaping requirements one (1) tree per seven thousand (7,000) square feet of grass parking lot area shall be required

iii. In addition to the requirements for tree plantings in Section 17.316 planting islands should be placed on the south and west sides of buildings and parking lots to shade the parking surface from the summer sun.

## d. Transitional Yards

- i. Within any GT-2 Gateway Overlay District transitional yards will be required within side and rear yard setbacks on lots or parcels with commercial or industrial uses.
- ii. The width of transitional yards shall be ten (10) feet
- iii. The transitional yards shall extend the entire length of each respective property boundary.
- iv. The transitional yards shall be maintained with living ground cover
- v. Transitional yards are required in addition to screening requirements set forth within these ordinances.
- vi. Property owners shall be ultimately responsible for the proper maintenance of all required landscape materials and the owner shall replace any dead or substantially damaged landscape materials.

## 5. Building Construction

All buildings and structures in the GT-2 Gateway Overlay District shall meet the following building design and construction standards:

- a. All exterior surfaces on any building or structure shall be earth-tone in color.
- b. All exterior walls facing any front or side yard setback shall be finished with the following materials, or a combination of the following materials:
  - i. Face brick;
  - ii. Natural stone;
  - iii. Pre-cast concrete panels or units, the surfaces of which have been integrally treated with an applied decorative material or texture;
  - iv. Stucco or similar cement based material;
  - v. Wood, consisting of horizontal lap siding or wood shakes; surfaces must be painted or finished;
  - vi. Decorative Block;
  - vii. Sheet siding may not be used on roof or sidewalls unless the Board of Adjustment determines said siding is compatible with the surrounding area and the use thereof meets or exceeds any additional conditions placed by the Board of Adjustment of said use including but not limited to being used in conjunction with brick, other types of siding or other accessory material;
  - viii. Any similar material which meets the purposes for which these regulations are designed and intended, and are approved by the Building Official. A request for approval shall include:

- a) A written description of the manner in which the proposed material promotes the purposes of this chapter of the ordinance;
  - b) A physical sample of all the proposed materials together with their technical specifications;
  - c) A color photograph of similar applications of the proposed material;
  - d) A sketch of the proposed construction showing the location of the proposed material; and
  - e) A written description explaining why approved materials described herein are not being considered
- c. Exterior walls not finished with the above listed materials shall be required to be screened using coniferous and deciduous shade trees. Deciduous shade trees may be utilized for up to fifty percent (50%) of the total number of trees provided for screening.
  - d. Additions to principal structures which conform to the provisions of this Chapter and all accessory buildings or structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.
6. Other performance standards
- a. Because of the range of land uses permitted within the GT-2 Gateway Overlay District, other design standards may be considered for conditional uses, major amendments, or final development plans.
  - b. Any additional standards shall be designed to eliminate or offset potential negative impacts to the landscape of this district which may result from development.

(Ord. No. 1496, 10-4-10)

**Sec. 17.124. “MU-E” Mixed Use- Egan Avenue Overlay District.**

**Sec. 17.124.01. Purpose and Intent.**

It is the purpose and intent of the Madison City Commission and Madison Planning Commission to establish a district which allows for the clustering of commercial uses, and local sources of employment in close proximity to residential uses which are approved with due consideration to public health and safety.

**Sec. 17.124.02. Establishment/Delineation/Regulation of the MU-E Mixed Use- Egan Avenue Overlay District.**

Boundaries for the “MU-E” Mixed Use Egan Avenue Overlay District are shown on the Mixed Use Overlay District Map as referenced in Chapter 17.02.01. The Mixed Use Overlay District Map is hereby adopted by reference as part of these regulations as if the map was fully described herein.

Any proposed project within the Mixed Use Overlay District which is denied by the Building Official or Planning Commission may be appealed to the Board of Adjustment.

**Sec. 17.124.03. Applicability.**

The provisions of this Chapter shall apply to any project on a lot or parcel in the Mixed Use Overlay District as described herein.

The Mixed Use Overlay District may be expanded to include other areas as recommended by the Comprehensive Land Use Plan of the City of Madison or other ancillary studies by recommendation of the Planning Commission and action of the City Commission.

Where the provisions of §17.123 conflict with other provisions of this Title, the provisions of §17.123 shall prevail.

Standards, uses, and regulations not addressed in §17.123 shall be regulated as defined elsewhere in this Title.

**Sec. 17.124.04. Mixed Uses Encouraged.**

Mixed-use developments are strongly encouraged in the Mixed Use- Egan Avenue Overlay District including the mixing of residential principal uses with principal commercial uses. Mixed-use development may occur by having two or more principal uses located in the same building (e.g., retail on ground floor, office space above).

Two or more principal uses located in different buildings sited on the same lot or parcel (e.g., free-standing child day care center located on the same parcel as an office building) may be permitted within the Mixed Use- Egan Avenue Overlay District in which an underlying zoning designation is HB, CB, or NB.

**Sec. 17.124.05. Uses.**

## 1. Permitted Uses:

Uses permitted in the MU-E Mixed Use- Egan Avenue Overlay District include those permitted in the underlying district which each respective lot is located.

## 2. Accessory Uses:

Accessory uses and structures customarily incidental to permitted uses.

## 3. Conditional Uses:

- a. Those uses permitted by conditional use in the underlying district which each respective lot is located.
- b. Home Occupations
- c. Site built single family dwellings on the same lot as a commercial use but not attached to the principal structure.
- d. Up to four dwelling units within the same structure as another listed permitted use or conditional use. Subject to:
  - i. The underlying district is HB, GB, NB, ML, or MR.

- ii. The dwelling unit is not directly entered from the ground floor.
- iii. In addition to the required minimum lot size for the specific district an additional five thousand (5,000) square feet of lot area is required.
- e. Multi family dwelling units within the same structure as another listed permitted use or conditional use. Subject to:
  - i. The underlying district is HB, GB, NB, ML, or MR.
  - ii. Dwelling units are not directly entered from the ground floor.
  - iii. In addition to the required minimum lot size for the specific district an additional five thousand (5,000) square feet for the first four (4) dwelling units and one thousand two hundred and fifty (1,250) square feet per dwelling unit is required.

**Sec. 17.124.06. Standards.**

1. Area Regulations

Area regulations shall be regulated in accordance with the area regulations for the underlying district.

2. Parking and Loading

- a. Loading berths and doors facing required side or rear yards shall be subject to screening or concealing from view.
- b. Mixed Use Reduction:  
Any building projects which involve a mix of uses will benefit from a more intensive and shared use of the parking supply. Any unified mixed use development will consequently require less offstreet parking than the sum of the number of spaces required for each separate use. A mixed use development constructed with offstreet parking accessible to and shared by all uses within the development shall have their required number of parking spaces calculated as follows:
  - i. Calculate the number of parking spaces required for each use separately.
  - ii. The use for which the required number of parking spaces is the largest shall be defined as the primary use for the purpose of determining this reduction only.
  - iii. The number of parking spaces required for the uses other than the primary use may be reduced according to the standards set forth in the table below:

<i>Floor Area of Nonprimary Uses*</i> <i>(In Sq. Ft.)</i>	Offstreet Parking Reduction Factor
0—20,000	10%
20,001—50,000	20%
50,001—100,000	30%
100,001—200,000	40%
200,001—greater	50%

\* If the sum of the required parking spaces of the nonprimary uses is greater than the number of required parking spaces of the primary use, the reduction factor shall be applied to the floor area of the primary use and not the nonprimary uses.

- iv. The minimum parking space requirement is the sum of the spaces required for the various uses computed separately reduced by the appropriate number of parking spaces calculated from the table above.
- v. Mixed use reduction does not apply to structures in the “CB” District.

### 3. Sidewalk/Recreational Trail

Where a recreational trail is provided in lieu of a sidewalk for lots the property owner shall be responsible for the removal of snow in the same manner as required §18-74 through §18-78 of these ordinances for a portion of said recreational trail not less than four (4) feet eight (8) inches wide to extend the length of the property.

### 4. Building Construction

All buildings and structures in the Mixed Use Overlay District shall meet the following building design and construction standards:

- a. All exterior surfaces on any building or structure shall be earth-tone in color.
- b. All exterior walls facing any front or side yard setback shall be finished with the following materials, or a combination of the following materials:
  - i. Face brick;
  - ii. Natural stone;
  - iii. Pre-cast concrete panels or units, the surfaces of which have been integrally treated with an applied decorative material or texture;
  - iv. Stucco or similar cement based material;
  - v. Wood, consisting of horizontal lap siding or wood shakes; surfaces must be painted or finished;

- vi. Decorative Block; or
- vii. Any similar material which meets the purposes for which these regulations are designed and intended, and are approved by the Building Official. A request for approval shall include:
  - a) A written description of the manner in which the proposed material promotes the purposes of this chapter of the ordinance;
  - b) A physical sample of all the proposed materials together with their technical specifications;
  - c) A color photograph of similar applications of the proposed material;
  - d) A sketch of the proposed construction showing the location of the proposed material; and
  - e) A written description explaining why approved materials described herein are not being considered
- c. Exterior walls not finished with the above listed materials shall be required to be screened using coniferous and deciduous shade trees. Deciduous shade trees may be utilized for up to fifty percent (50%) of the total number of trees provided for screening.
- d. Additions to principal structures which conform to the provisions of this Chapter and all accessory buildings or structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.
- 5. Other performance standards
  - a. Because of the range of land uses permitted within the Mixed Use Overlay District, other design standards may be considered for special exceptions, major amendments, or final development plans.
  - b. Any additional standards shall be designed to eliminate or offset potential negative impacts to the landscape of this district which may result from development.

**Sec. 17.125. “MU-C” Mixed Use- Commercial Emphasis Overlay District.**

**Sec. 17.125.01. Purpose and Intent.**

It is the purpose and intent of the Madison City Commission and Madison Planning Commission to establish a closed district which allows for the continuation of residential uses within underlying business districts at a density not to exceed that of current residential development.

**Sec. 17.125.02. Establishment/Delineation/Regulation of the MU-C Mixed Use- Commercial Emphasis Overlay District.**

Boundaries for the “MU-C” Mixed Use Commercial Emphasis Overlay District are shown on the Mixed Use Overlay District Map as referenced in Chapter 17.02.01. The Mixed Use Overlay District Map is hereby adopted by reference as part of these regulations as if the map was fully described herein.

**Sec. 17.125.03. Applicability.**

The provisions of this Chapter shall apply to any project on a lot or parcel in the “MU-C” District as described herein.

Where the provisions of §17.125 conflict with other provisions of this Title, the provisions of §17.125 shall prevail.

Standards, uses, and regulations not addressed in §17.125 shall be regulated as defined elsewhere in this Title.

**Sec. 17.125.04. Uses.**

## 1. Permitted Uses:

Those permitted in the underlying district which each respective lot is located.

## 2. Accessory Uses:

Accessory uses and structures customarily incidental to permitted uses.

## 3. Conditional Uses:

- a. Those uses permitted by conditional use in the underlying district which each respective lot is located.
- b. Site built single family dwellings.
- c. Two family dwellings.
- d. Multiple family dwellings.
- e. Modular homes.
- f. Home occupation.

**Sec. 17.125.05. Standards.**

## 1. Area Regulations

Area regulations shall be regulated in accordance with the area regulations for the underlying district.

## 2. Discontinuation of Use

Any use granted a conditional use permit in the “MU-C” District which is not listed as a conditional use in the underlying district shall become a nonconforming use in the underlying district and subject to the provisions of Section 17.12 if such use is discontinued for one (1) year.

## 3. Other Performance Standards

Because of the range of land uses permitted within the Mixed Use-Commercial Emphasis Overlay District, other design standards may be considered for special exceptions, major amendments, or final development plans.

## **ARTICLE III ADMINISTRATION**

### **Sec. 17.20. General.**

#### **Sec. 17.20.01. Permits Required.**

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Administrative Official. No permit shall be issued by the Administrative Official except in conformity with the provisions of this ordinance, unless the Administrative Official has received a written order from the Board of Adjustment in the form of an administrative review, under conditional use or variance as provided by this ordinance.

#### **Sec. 17.20.02. Applications.**

All applications for permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, including Construction Documents as required in Chapter 6 of these Ordinances; legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformity with, and provide for the enforcement of, this ordinance.

#### **Sec. 17.20.03. Fee Schedule.**

The City Commission shall establish a schedule of fees, charges, and expenses and a collection procedure for use permits, certificates of zoning compliance, amendments, appeals, and other matters pertaining to this ordinance. The schedule of fees may be altered or amended only by the City Commission.

The current fee schedule shall be available from the Administrative Official or Finance Officer. All fees shall be the property of the City and shall be paid over to the Finance Officer for credit to the General Fund of the City which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

#### **Sec. 17.20.04. Issuance of Permits.**

Permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and other use, arrangement, or construction at variance with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Section 17.01.02 of this Code.

**Sec. 17.20.05. Expiration of Use Permit.**

Any use permit or variance shall expire one (1) year from the date upon which it became effective if no work has commenced. Upon written request to the Administrative Official and prior to the use permit or variance expiration date, a one-year time extension for the conditional use permit or variance may be granted by the Administrative Official, subject to the following conditions:

1. There was no public objection presented during the public hearing process (if required) for the original conditional use permit;
2. The land uses for the surrounding properties have not significantly been altered since the original approval date for the use permit; and
3. There are collateral on-going permitting processes or necessary engineering/planning studies relating to the specific project for the conditional use permit or variance that may impact the one-year schedule for project completion.

**Sec. 17.21. Administrative Official.****Sec. 17.21.01. Establishment and Purpose.**

The position of Administrative Official is hereby established for the City of Madison. The City Engineer shall serve as Administrative Official. Further, he/she may be provided with the assistance of such other persons as the City Commission may direct. The Administrative Official shall administer and enforce this ordinance. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

**Sec. 17.21.02. Duties/Powers.**

The powers and duties of the Administrative Official shall be as follows:

1. Issue all building permits and make and maintain records thereof.
2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.
3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct it.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke; any permit which was unlawfully issued or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.

6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.
7. Provide public information relative to all matters arising out of this Ordinance.
8. Forward to the Planning Commission all applications for amendments to this Ordinance.
9. Forward to the Board of Adjustment, applications for appeals, conditional use permits, variances, or other matters on which the Board of Adjustment is required to pass under this Ordinance.
10. Initiate, direct, and review, from time to time, a study of the provisions of this Ordinance, and to make such reports available to the Planning Commission. The Administrative Official shall receive applications for Building Permits, Conditional Uses, Variances, and Zoning Amendments.
  - a. For Building Permits, the Administrative Official shall approve the application only in accordance with the provisions of the City's Zoning Regulations.
  - b. For Conditional Uses and Variances, the Zoning Administrator shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application.
  - c. For Zoning Amendments, the Administrative Official shall review the application, and shall make comments regarding said application to the Planning Commission.

### **Sec 17.22. Planning Commission.**

#### **Sec 17.22.01. Planning Commission Created.**

There is hereby created a Planning Commission for the City of Madison, South Dakota and for land within three miles of its corporate limits.

#### **Sec 17.22.02. Membership of the Planning Commission.**

The City Planning Commission shall consist of seven (7) members appointed by the Mayor subject to the approval of the Board of Commissioners. The members shall be resident electors of the City qualified by knowledge or experience to act in matters pertaining to the development and administration of a City plan who shall not hold any elective office in the municipal government. The City Engineer shall be an ex officio member without a right to vote.

#### **Sec. 17.22.03. Temporary Addition to Planning Commission of Resident of Affected Outside Area.**

For the purpose of carrying out any of the provisions of Sections 17.22.03 to 17.22.15 of this Code, inclusive, the Board of Commissioners may temporarily add as a member of the City Planning Commission a resident of the area to be affected by proposed official municipal controls outside the corporate limits of the City.

**Sec 17.22.04. Terms of Members.**

The terms of each of the appointed members of the City Planning Commission shall be for five (5) years except that when the commission is first appointed, four (4) members shall be appointed for two (2) years, and the balance of the members shall be appointed for three (3) years. Thereafter, appointments of each member shall be for terms of five (5) years so that there will be an overlapping of tenures.

**Sec. 17.22.05. Vacancies.**

Any vacancy in a membership on the City Planning Commission shall be filled for the unexpired term in the same manner as for appointment.

**Sec. 17.22.06. Removal of Members.**

The Mayor, with the confirmation of the Board of Commissioners, shall after public hearing, have authority to remove any member of the City Planning Commission for cause shall be stated in writing and made a part of the record of such hearing.

**Sec. 17.22.07. Compensation of Members.**

All members of the City Planning Commission shall serve as such with compensation in the amount of \$25.00 per meeting in addition to actual expenses, which shall be subject to the approval of the Board of Commissioners.

**Sec. 17.22.08. Chairman and Officers.**

The City Planning Commission shall elect its chairman from among its members for a term of one year with eligibility for re-election, and may fill such other of its offices as it may create in a manner prescribed by the rules of the Commission.

**Sec. 17.22.09. Meetings, Rules and Records.**

The City Planning Commission shall hold at least one regular meeting each month. It shall adopt rules for transaction of its business and shall keep a record of its resolutions, transactions, findings, and determinations which shall be a public record.

**Sec. 17.22.10. Function of Finance Officer.**

The Finance Officer, or his deputy, shall act as secretary of the City Planning Commission, but shall not be a member thereof.

**Sec. 17.22.12. Employees and Contracts for Special Services.**

Relative to the provisions of this article the Board of Commissioners may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and

removal shall be subject to the same provisions of law, including civil service regulations, as govern other corresponding civil employees of the City. The Board of Commissioners may also contract with City planners, engineers, architects, and other consultants as well as federal, state, and local agencies for such services as it may require.

**Sec. 17.22.13. Information Furnished by Public Officials; Examinations and Surveys; General Powers.**

All public officials shall, upon request, furnish to the City Planning 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 marks thereon. In general, the Commission shall have all such powers as may be necessary to enable it to fulfill and perform its functions, promote municipal planning or carry out all the purposes of this chapter.

**Sec. 17.22.14. Expenditures.**

The expenditures of the Planning Commission, exclusive of those made from funds received by gift, shall be within the amounts appropriated for the purpose by the local legislative body, which shall provide the funds, equipment, and accommodations necessary for the Commissions' work.

**Sec. 17.22.15. Other Contracts.**

All contracts and agreements relating to the work of the Planning Commission and for services or materials required by it shall be made by the Board of Commissioners in its discretion.

**Sec. 17.23. Board of Adjustment.**

**Sec. 17.23.01. Establishment of the Board of Adjustment.**

A Board of Adjustment is hereby established, which shall consist of the members of the Planning Commission, to hear and decide appeals arising from administrative interpretation of this Ordinance and to allow variances and conditional uses as provided in Chapter 11-4 of the South Dakota Compiled Laws and Amendments.

**Sec. 17.23.02. Procedures for Meetings.**

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment 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 examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board of Adjustment.

**Sec. 17.23.03. Hearings; Appeals; Notice.**

Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer of the governing body of the City affected by any decision of the Administrative Official. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days of such lesser period as may be provided by the rules of the Board, by filing with the Administrative Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

**Sec. 17.23.04. Stay of Proceedings.**

An appeal stays all proceedings in furtherance of the action appealed from unless the Administrative Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause an imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrative Official from whom the appeal is taken and on due cause shown.

**Sec. 17.23.05. Powers and Duties of Board of Adjustment.**

The Board of Adjustment shall have the following powers and duties:

**1. Administrative Review:**

- a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Official in the enforcement of this Ordinance.
- b. To hear and decide appeals to decisions made by the Administrative Official regarding Zoning Permits.

**2. Conditional Uses:**

To hear and decide only such conditional uses as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance.

### 3. Variances:

To hear requests for variances from this ordinance in instances where strict enforcement would cause unnecessary hardship, and to authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

#### **Sec. 17.24. Procedures for Applications.**

##### **Sec. 17.24.01. Building Permits.**

No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this ordinance including use, height, number of occupants, lot area, off-street parking or yard requirements, shall occur without a Building Permit issued by the Administrative Official. Building permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and specifications. Any use, arrangement, or construction at variance without authorization shall be deemed a violation of this regulation and shall be punishable as provided by this regulation. The failure to obtain the necessary building permit shall be punishable under this regulation.

1. An Application for a Building Permit, accompanied with the appropriate fee, available from the Administrative Official or Finance Officer, shall be completed by the landowner requesting the Building Permit. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items:
  - a. Applications for building permits shall be accompanied by a set of plans drawn to scale with the following information indicated in order to determine compliance with this Ordinance.
  - b. A plot plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.
  - c. The location of the said lot with respect to existing rights-of-way and adjacent lots.
  - d. A letter of certification stating that the lot to be built upon has been accurately surveyed.
  - e. Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this Ordinance.
  - f. Any other construction documents as required in Chapter 6 of these Ordinances;

- g. Any of the above requirements may be waived by the Administrative Official in cases of permits to alter the interior of any existing structure or in the event lot markers (pins) have been located.
2. One copy of the plans shall be returned to the applicant, after the Administrative Official has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. One copy of the plans, similarly marked, shall be retained by the Administrative Official.
3. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment.

### **Sec. 17.24.02. Conditional Uses.**

Conditional Uses are allowed for certain uses in some districts. Uses not listed in the District

Regulations as eligible for a Conditional Use Permit shall not, in any circumstances, be granted a Conditional Use Permit.

1. The following procedure shall be followed by the Board of Adjustment in considering the recommendation of the Administrative Official. A Conditional Use Permit from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
  - a. An application for a Conditional Use Permit, available from the Administrative Official, shall be completed by the landowner requesting the Conditional Use Permit. The application shall further be accompanied by any required attachments and fees, as in Article III, Section 17.20.03. The written application for a Conditional Use shall indicate the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested. Completed applications shall be returned to the Administrative Official for review.
  - b. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Article III, Section 17.24.01 (1)(a) has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a Conditional Use Permit.
  - c. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval or disapproval of the application.
  - d. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the landowner

and the adjacent landowners, excluding streets, and alleys, by Registered or Certified Mail, at least one (1) week before the public hearing. In situations that involve rental lots, such as is commonly encountered in the Manufactured Housing Residential District Zone, only the real property nearest the rental lot and also the adjacent rental lots, that is to say the adjacent renters, shall be considered “adjacent landowners” and shall receive the required notices. The Administrative Official shall post notices of the public hearing at the City Office. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than 10 (ten) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit.

- e. The applicant shall place upon the property subject to the application, a sign (to be approved by the City) indicating a conditional use permit is being sought. The applicant shall provide to the City a Certificate of Compliance indicating the sign with notice was in place not less than ten (10) days prior to the public hearing
- f. A public hearing shall be held. Any party may appear in person, or by agent or attorney.
- g. The applicant, at the time of hearing, before the Board of Adjustment shall submit either a petition signed by the neighbors stating their approval of the requested conditional use permit or variance, or in the alternative shall provide documentation establishing that all adjacent landowners were notified by certified mail at least ten (10) days prior to the hearing of the application for conditional use permit or variance.
- h. The Board of Adjustment shall make a finding that it is empowered or not empowered under the section of this ordinance described in the application to grant the Conditional Use Permit, and that the granting of the Conditional Use Permit is either consistent or inconsistent with the intent of these Zoning Regulations and will or will not adversely affect the public interest.
- i. Before any Conditional Use shall be issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual Conditional Uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - i. Entrance and exit to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - ii. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the District;
  - iii. Utilities, refuse, and service areas, with reference to locations, Availability, and compatibility;
  - iv. Screening and buffering with reference to type, dimensions, and character;
  - v. Required yards and other open space; and
  - vi. General compatibility with adjacent properties and other property in the district.

2. Approval or denial of any application for a Conditional Use permit shall be by a two-thirds (2/3) majority of all members of the Board of Adjustment (5 votes).
3. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a Conditional Use Permit. A Conditional Use Permit shall remain valid only as long as the original applicant or his heir, successor, and/or assign complies with any terms and conditions of the Conditional Use Permit, as attached by the Board of Adjustment.

**Sec. 17.24.03. Variances.**

Variances are designed to allow some flexibility in the Zoning Regulations, in cases where the exceptional shape of a parcel of land, in cases where use of a property is overwhelmingly affected by exceptional topographic conditions, or any other extraordinary situation or condition of such parcel of land. Variances are to be approved only when a property owner demonstrates that the provisions of all or part of these Zoning Regulations present an undue hardship on such property owner's use of such parcel of land. A variance shall include a description of the specific regulatory item or items in these Zoning Regulations which are found to produce said undue hardship. Variances shall only be granted when the Board of Adjustment finds that such relief from these Zoning Regulations will be neither detrimental to the public good nor in conflict with the intent of these Zoning Regulations.

1. The following procedure shall be followed by the Board of Adjustment in considering a variance from the terms of this ordinance:
  - a. An application for Variance, available from the Administrative Official or Finance Officer, shall be completed by the landowner requesting the variance, and shall be accompanied by any required attachments and fees, as in Article III, Section 17.20.03. The written application for a Variance shall indicate the section of this ordinance under which the Variance is sought and stating the grounds for which it is requested. Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. Every application shall contain the following information:
    - i. Legal description of the land on which such conditional use or variance is requested, together with local street address.
    - ii. Name and address of each owner of the property.
    - iii. Name, address, phone number, and signature of the applicant.
    - iv. Zoning district classification under which the property is regulated at the time of such application.
    - v. Be accompanied with a site plan, unless waived by the Administrative Official.
      - a) The address of the property and the legal description.
      - b) The name of the project and/or business.

- c) The scale and north arrow.
  - d) All existing and proposed buildings or additions.
  - e) Dimensions of all buildings.
  - f) Distance from all building lines to the property lines at the closest point.
  - g) Building height and number of stories.
  - h) Dimensions of all property lines.
  - i) Parking lots or spaces; designate each space, give dimensions of the lot, stalls, and aisles.
  - j) Screening; show height, location, and type of material to be used.
  - k) The landscaped setback and trees; indicate species of trees and material to be used for landscaping.
  - l) Name and location of all adjacent streets, alleys, waterways and other public places.
- b. If any of the information required by Article III, Section 17.24.01 (1)(a) has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a Variance.
- c. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval or disapproval of the application.
- d. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the landowner and the adjacent landowners, excluding streets, and alleys, by Registered or Certified Mail, and shall post notices of the public hearing at the City Office at least one (1) week before the public hearing. In situations that involve rental lots, such as is commonly encountered in the Manufactured Housing Residential District Zone, only the real property nearest the rental lot and also the adjacent rental lots, that is to say the adjacent renters, shall be considered Adjacent Lands and shall receive the required notices. No less than ten (10) days before the public hearing, the Administrative Official shall publish notice, to be paid by the applicant, of the public hearing in a newspaper of general circulation in the area affected by the proposed Variance.
- e. The applicant shall place upon the property subject to the application, a sign (to be approved by the City) indicating variance is being sought. The applicant shall provide to the City a Certificate of Compliance indicating the sign with notice was in place not less than ten (10) days prior to the public hearing.

- f. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.
- g. The applicant, at the time of hearing, before the Board of Adjustment shall submit either a petition signed by the neighbors stating their approval of the requested conditional use permit or variance, or in the alternative shall provide documentation establishing that all adjacent landowners were notified by certified mail at least ten (10) days prior to the hearing of the application for conditional use permit or variance.
- h. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
  - i. A written application for a variance is submitted demonstrating:
    - a) That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district.
    - b) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
    - c) That the special conditions and circumstance do not result from the actions of the applicant.
    - d) That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
    - e) No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
    - f) If the property is located within the Water Source Protection Overlay District, the following information shall accompany the application:
      - 1) Description of the proposed activity, use, or development, including information, technical data, and complete blueprints.
      - 2) Inventory, including amounts of contaminants and/or hazardous materials to be stored or used on the property or premises.
      - 3) Provide complete description, plans, and specifications of primary and secondary containment facilities including provisions for leak/spill detection and monitoring.
      - 4) Submit a comprehensive contingency plan approved by SDDENR.
  - ii. The Board of Adjustment shall make findings that the requirements of Article III Section 17.24.03.h.i. above have been met by the applicant for a variance.

- iii. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  - iv. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  - v. Approval or denial of any variance shall be by a two-thirds (2/3) majority of all members of the Board of Adjustment (5 votes).
2. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 17.01.02 of this Code.
  3. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

**Sec. 17.24.04. Board Has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official.**

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.
2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.
3. The concurring vote of two-thirds (2/3) of all members of the Board of Adjustment (5 votes) shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

**Sec. 17.24.05. Appeals.**

Any person(s), or jointly or severally, aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of South Dakota. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Finance Officer.

**Sec. 17.24.06. Revocation.**

If the Administrative Official finds that at any time that the terms, conditions, and requirements of the conditional use permit or variance have not been complied with, or that any phase thereof has not been completed within the time required under said conditional use permit or variance or any amendment thereto, the Administrative Official shall report this fact to the permittee and the Planning Commission. The Planning Commission may, after conducting a public hearing, of which the permittee shall be notified, submit a recommendation to the City Commission for their consideration and action. After a public hearing of which the permittee shall be notified, the City Commission (Board) may revoke such conditional use permit or variance for failure to comply with such terms, conditions, and requirements, or take such other action as it may deem necessary to obtain compliance, including legal remedies as deemed appropriate.

**Sec. 17.24.07. Zoning Amendments.**

The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Unless otherwise provided for in these Zoning Regulations, any change in these Zoning Regulations, shall require City Commission approval of an ordinance describing said changes. The City Commission may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance.

The following procedure for requesting a Zoning Amendment shall be followed:

1. An application for Amendment, available from the Administrative Official or Finance Officer, shall be completed by the landowner or other person(s) requesting the Amendment. Completed applications shall be returned to the Administrative Official for review. To be considered by the Planning Commission and City Commission, the application form shall be completed and shall be accompanied by the following items:
  - a. Any required attachments and City fees; and
  - b. Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for the enforcement of this ordinance.
2. The Administrative Official shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.
3. The Administrative Official shall set the date, time and place for a joint public hearing or individual public hearings to be held by the Planning Commission and City Commission. The Administrative Official shall notify the landowner by Registered or Certified Mail at least one (1) week before the public hearing(s) at the City Office. The Zoning Administrator shall also publish notice of the public hearing(s) in a newspaper of general circulation in the area

affected by the proposed Amendment; such notice shall be published not less than ten (10) days prior to the public hearing(s). If the proposed amendment will change the boundaries of a zoning district, the Zoning Administrator shall notify all owners of property within two hundred fifty (250) feet, excluding streets and alleys, affected by the proposed boundary change at least one (1) week before the public hearing(s). Adjacent landowners shall be notified by Registered or Certified Mail.

(Ord. No. 1485, 12-7-09)

4. The applicant shall place upon the property subject to the application, a sign (to be approved by the City) indicating a zoning change is being sought. The applicant shall provide to the City a Certificate of Compliance indicating the sign with notice was in place not less than ten (10) days prior to the public hearing(s).  
(Ord. No. 1485, 12-7-09)
5. The public hearing(s) shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing(s) shall be recorded and kept in the records of the Planning Commission.  
(Ord. No. 1485, 12-7-09)
6. The applicant, at the time of hearing, before the Board of Adjustment shall submit either a petition signed by the neighbors stating their approval of the requested conditional use permit or variance, or in the alternative shall provide documentation establishing that all adjacent landowners were notified by certified mail at least ten (10) days prior to the hearing of the application for conditional use permit or variance.
7. The Planning Commission shall either recommend or not recommend approval of the amendment to the City Commission.
8. The City Commission shall either approve or not approve the ordinance describing the proposed changes to these Zoning Regulations, in accordance with standard procedures for reading, approval, publication and effective date.
9. When the City Commission approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds (2/3) of the City Commission.
  - a. Protest Standard: The protest shall be signed by at least 40% of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within two hundred fifty (250) feet of the area affected by the amendment.

#### **Sec. 17.24.08. Reapplication.**

No application requesting a variance, conditional use, or zoning ordinance amendment or district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board of Adjustment or City Commission, shall again be considered by the Planning Commission, Board of Adjustment or City Commission before the expiration of six (6) months from the date of the final action of the Planning Commission, Board of Adjustment, and or City Commission.

**ARTICLE IV  
SUPPLEMENTAL REGULATIONS**

**Sec. 17.30. Visibility at Intersections.**

Except in zones allowing the construction of buildings or structures to the property line, on any corner lot in any zoning district, no planting or obstruction to vision between the range of three (3) and eight (8) feet in height measured from the center line of the road shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is fifty (50) feet distance from the point of intersection (Clear View Triangle). Where an alley intersects a street no planting or obstruction to vision between the range of three (3) and eight (8) feet in height measured from the center line of the road shall be placed or maintained within the triangular area formed by the intersection road and alley right-of-way lines and a straight line connecting points on said road and alley right-of-way line each of which is fifteen (15) feet distance from the point of intersection (Clear View Triangle).

**Sec. 17.31. Fences.**

**Sec. 17.31.01. Construction Limitations.**

1. Notwithstanding other provisions of this ordinance, fences, walls, and hedges with a maximum height of not more than seven (7) feet high, may be erected on any part of a lot other than in the required front and side yards.

Exceptions: The following types of fences may be constructed in the required front or side yard under the following conditions:

- a. Fences less than fifty percent (50%) solid subject to the following conditions:
    - i. Maximum height is no greater than four (4) feet.
  - b. Fences greater than fifty percent (50%) solid:
    - i. Maximum height is no greater than thirty (30) inches; or
    - ii. Maximum height is no greater than four (4) feet where said fence does not in any way obstruct the view of pedestrian or vehicular traffic from the intersecting right of way to the ingress/egress point of the lot. A fence will be considered to obstruct said view when constructed within the triangular area formed by the intersection road right-of-way line, the center line of the ingress/egress and a straight line connecting points on said road and ingress/egress line each of which is fifty (50) feet distance from the point of intersection.
2. Fences, walls, and hedges which are more than thirty (30) percent solid shall abide by Section 17.30.
  3. No person shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained in the City of Madison corporate limits any fences of any character or material, without first securing permission from the Administrative Official. Further, no such fence of any kind shall be built closer than two (2) feet to the inside sidewalk line or street right-of-way.

4. Approved fencing materials include stone, brick, wood, vinyl, and chain link. The City further requires fencing materials to be “new” - used for first time installation. Individuals wishing to utilize “used” – not first time installation fencing materials shall require Board of Adjustment approval. No electric or barbed wire shall be used in the construction of any fences within the City of Madison. Except that barbed wire may be used on agricultural property and in connection with a security fence when the barbed wire is at least six (6) feet from the ground.
5. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.
6. That side of the fence considered being the face (facing as applied to fence post) should face abutting property.

### **Sec. 17.32. Commercial Building Standards.**

That no structure built, remodeled or repaired, in any Central Business, Neighborhood Business and General Business district may have as its outer covering on the roof or sidewalls any material defined as sheet siding unless the Board of Adjustment determines said siding is compatible with the surrounding area and the use thereof meets or exceeds any additional conditions placed by the Board of Adjustment of said use including but not limited to being used in conjunction with brick, other types of siding or other accessory material.

### **Sec. 17.33. Accessory Buildings and Uses.**

1. Accessory uses must be subordinate to principal use.
2. No accessory use shall be permitted in any district unless such use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same parcel with the principal use in conjunction with which it is maintained.
3. No accessory building which is attached to or within (ten) 10 feet of a principal structure shall be erected in any required yard. Exceptions:
  - a. An accessory structure may be constructed within two (2) feet of an inside lot line when the entire structure is within forty (40) feet of the rear property line, or on the rear half of a lot if the adjacent lot is built upon and the accessory building will be entirely to the rear of the line of any principal building on the said neighboring lot.
  - b. The Board of Adjustment may allow adjoining property owners may construct accessory building with party wall in lieu of the two (2) foot side yard, but in compliance with the general location rules of 17.33.3 above, provided such wall conforms with the requirements of the Building Code and a finding is made by the Board of Adjustment that such party wall development will be appropriate to the topographic conditions and in harmony with the character of development of the neighborhood.
4. No separate accessory building shall be erected within five (5) feet of any other building.

- 5. No accessory building may be used for residential dwelling purposes at any time.
- 6. Residential Districts.

Accessory uses shall be permitted for the principal permitted uses and conditional uses of the residential districts only in accordance with the provisions of the following table hereby adopted by reference and declared to be part of this Ordinance.  
(Ord. No. 1485, 12-7-09; Ord. No. 1496, 10-4-10)

**Permitted uses:**

Principal Use	Permitted Accessory Uses
<p>Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers.</p> <ul style="list-style-type: none"> <li>a. Have siding material of a type customarily used on site-constructed residence. This is not to include corrugated galvanized steel, unless otherwise stated herein.</li> <li>b. Sheet siding may not be used on roof or sidewalls unless the Board of Adjustment determines said siding is compatible with the surrounding area and the use thereof meets or exceeds any additional conditions placed by the Board of Adjustment of said use including but not limited to being used in conjunction with brick, other types of siding or other accessory material.</li> </ul>	<ul style="list-style-type: none"> <li>1. Private garages.                             <ul style="list-style-type: none"> <li>i. Attached garages shall be limited to maximum dimensions of thirty-six (36) feet by forty (40) feet and conform to the design of the house.</li> <li>ii. Unattached garages shall be limited to maximum sidewalls of ten (10) feet; maximum dimensions of thirty-six (36) feet by forty (40) feet; and a minimum of 4/12 roof pitch to conform to the design of the house.</li> <li>iii. Unattached garages shall have roofing and siding material of a type customarily used on site-constructed residence. Comparable to dwelling and be color coordinated to dwelling. Exception sheet siding may not be used on roof or sidewalls unless the Board of Adjustment determines said siding is compatible with the surrounding area and the use thereof meets or exceeds any additional conditions placed by the Board of Adjustment of said use including but not limited to being used in conjunction with brick, other types of siding or other accessory material.</li> </ul> </li> <li>2. Buildings or structures for customary residential storage purposes not over ten (10) feet in height and not exceeding one hundred twenty (120) square feet in gross floor area, utilizing building materials customarily used for residential construction.</li> <li>3. Readily moveable sports, recreation, or outdoor cooking equipment.</li> <li>4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools (with an approved security fence), barbeque pits, and similar improvements provided a site plan for such facility is approved.</li> <li>5. Home occupations but only as defined herein.</li> <li>6. Non-commercial greenhouses provided that greenhouses over one hundred twenty (120) square feet in floor area must have an approved site plan.</li> <li>7. Off-street parking and storage of vehicles, but only as provided in Chapter 17.35 of this Ordinance.</li> <li>8. Commercially available carports which utilizes sheet siding.</li> </ul>
<p>Churches, Convents and Monasteries</p>	<ul style="list-style-type: none"> <li>1. All customarily incidental uses reasonably necessary to allow the free exercise of religion, but not to include commercial use.</li> </ul>
<p>All conditional uses</p>	<ul style="list-style-type: none"> <li>1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use</li> </ul>
<p>All other items</p>	<ul style="list-style-type: none"> <li>1. No accessory uses permitted.</li> </ul>

7. Commercial and Industrial Districts.

In any commercial district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

**Sec. 17.34. Signs.**

**Sec. 17.34.01. Intent.**

The intent of this Section is to provide for necessary visual communications and to preserve and promote a pleasant physical environment within the City by regulating the type, number, size, height, lighting, maintenance, and erection of sign structures.

**Sec. 17.34.02. Permit Required.**

1. No sign shall be erected, re-erected, or altered unless a permit has been obtained unless no permit is required pursuant to Section 17.3704.4. Application for a sign permit shall be made in writing on forms furnished by the Administrative Official. No separate building permit shall be required, but the Administrative Official may require filing of plans or other pertinent information where such information is necessary to ensure compliance with the Building Code.

2. The fee for a sign permit shall be as follows; One hundred (100) square feet or less - thirty dollars (\$30), plus five dollars (\$5) for each additional one hundred (100) square feet or fraction thereof. A double fee shall be charged if a sign is erected without first obtaining a permit for sign.

(Ord. No. 1485, 12-7-09)

**Sec. 17.34.03. Signs Requiring Permit.**

Signs shall be permitted on private property in accordance with Table 1. If the letter “P” appears for a sign type in a column, such sign is allowed upon obtaining a sign permit. If the letter “C” appears for a sign type in a column, such sign is allowed upon obtaining a conditional use permit. If the letters “NA” appear for a sign type in a column, such sign is not allowed in the respective district under any circumstances.

**TABLE 1  
SIGNS BY TYPE AND ZONING DISTRICT**

SIGN TYPE	ZONING DISTRICTS							
	R's	CB/GB	NB	MU-R	HB	ML	MH	AG
Ground Sign	P*	P	P	C	P	P	P	NA
Wall Sign	P	P	P	P	P	P	P	P
Roof Sign	NA	NA	NA	NA	P	NA	NA	NA
Projecting	NA	NA	NA	NA	P	NA	NA	NA
Parking Signs	P	P	P	P	P	P	P	NA
Off-Premise Signs	NA	NA	C	C	C	C	C	NA
Temporary Signs	NA	P	P	P	P	P	P	NA
Development Signs	NA	P	P	P	P	P	P	NA

P = Allowed upon obtaining a sign permit

C = Allowed upon obtaining a conditional use permit

NA = Not Allowed

\*Permitted for Religious uses, public institutions, non-residential, or residential development uses.

**Sec. 17.34.04. Supplementary Regulations for Signs Requiring Permit.**

Signs requiring permit shall not exceed the maximum number or square footage nor encroach into the minimum setback shown on the following table. If the letters “NA” appear for a sign type in a column, such sign is not allowed in the respective district under any circumstances.

**TABLE 2  
SUPPLEMENTARY REGULATIONS FOR SIGNS REQUIRING PERMIT**

SUPPLEMENTAL REGULATIONS	ZONING DISTRICTS							
	Religious uses, public institutions, non-residential, or residential development uses in R-Districts	R-Districts	CB/GB	NB/MU-R	HB	ML	MH	AG
<i>Setbacks</i>								
Ground Signs From Right of Way	0'	NA	0'	0'	0'	0'	0'	NA
Ground Signs From Lot Lines	5'	NA	5'	5'	5'	5'	5'	NA
Off-Premise Signs From Residential Zoning District, park, playground, school, or religious use	NA	NA	NA	100'	100'	100'	100'	NA
Off-Premise Signs less than 300 sq ft from other Off-Premise Signs	NA	NA	NA	400'	400'	400'	400'	NA
Off-Premise Signs Greater than 300 sq ft from other Off-Premise Signs greater than 300 sq ft	NA	NA	NA	700'	700'	700'	700'	NA
Off-Premise Signs From Right Of Way	NA	NA	NA	20'	20'	20'	20'	NA
<i>Total Sign(s) Area (Maximum Sq. Ft.)</i>								
On-Premise Signs	50% the total lineal feet of frontage; not to exceed 32 Sq. Ft.	1 Sq. Ft.	200% the total lineal feet of frontage	Equal to the total lineal feet of frontage	300% the total lineal feet of frontage*	200% the total lineal feet of frontage	200% the total lineal feet of frontage	1 Sq. Ft.
Off Premise Signs**	NA	NA	NA	700 Sq. Ft.	700 Sq. Ft.	700 Sq. Ft.	700 Sq. Ft.	NA
Development Signs	NA	NA	100 Sq. Ft.	100 Sq. Ft.	100 Sq. Ft.	100 Sq. Ft.	100 Sq. Ft.	NA

NA = Not Allowed

\*Corner Lots and Through Lots shall be permitted one hundred fifty percent (150%) of the total allowable sign area with no more than one hundred percent (100%) adjacent to any one street.

**TABLE 2**  
**SUPPLEMENTARY REGULATIONS FOR SIGNS REQUIRING PERMIT**  
*(Continued)*

SUPPLEMENTAL REGULATIONS	ZONING DISTRICTS							
	Religious uses, public institutions, non-residential, or residential development uses in R-Districts	R-Districts	CB/GB	NB/MU-R	HB	ML	MH	AG
<i>Maximum Number Allowed</i>								
Total Number of On-Premise Signs***	2	1	4	2	4	4	4	1
Number of Ground Signs	1	NA	1	1	2	1	1	NA
<i>Maximum Height</i>								
Ground Signs	15'	NA	30'	20'	40'	30'	30'	NA
Roof Signs- Excluding Advertising	NA	NA	NA	NA	15'	NA	NA	NA
Off-Premise Signs****	NA	NA	NA	30'	40'	30'	30'	NA
Development Signs	NA	NA	15'	15'	15'	15'	15'	NA
<i>Maximum Projecting Distance</i>								
From Building Face	NA	NA	1'	1'	6*****	1'	1'	NA
Above Roof Line	0'	0'	0'	0'				

NA = Not Allowed

\*\*\*Where permitted, one (1) on-premise sign per frontage shall be allowed subject to the maximum number described herein.

\*\*\*\*Where permitted adjacent to State or Federal Highways Off-Premise Signs may be a maximum height of forty feet (40')

\*\*\*\*\*Not more than one sign may project with a minimum underside clearance of fourteen feet (14')

**Sec. 17.34.05. Exempted Signs - No Permit Required.**

1. The following signs need no permit, but shall conform to the requirements of this Section:
  - a. Pedestrian, vehicular-traffic, and parking directional signs in parking lots, provided such signs are less than eight (8) square feet in area and six (6) feet in height. Such signs shall not be included in determining allowable signage.
  - b. Public signs, street signs, warning signs, railroad crossing signs, or signs of public service companies for the purpose of safety.
  - c. Signs denoting the architect, engineer, contractor, or owners, when placed upon a work site. Such signs shall be removed within ten (10) days after completion of construction.
  - d. Signs designating candidates seeking public political office, provided that such election sign shall not exceed eight (8) square feet in size. Such signs shall be located on private property and shall not be located on an intersection so as to obstruct vehicular lines of sight.
  - e. Signs or posters attached or painted on the inside of a display window. This shall include illuminated signs, but not flashing signs.

- f. Flags, badges, or insignia of any government, governmental agency, or any civic, religious, fraternal or similar organization.
- g. Emergency signs required by any governmental agency.
- h. Temporary real estate signs pertaining only to the sale, rental or development of the lot upon which displayed, such signs shall not exceed six (6) square feet for residential property or twenty-four (24) square feet for other property. One (1) sign shall be permitted for each lot and must be removed within ten (10) days following the sale, lease, or development.
- i. Banners placed on private property for advertising a special sales event or grand opening. Such banners shall contain no advertising.
- j. Memorial signs or tablets, names of buildings and date of erection when cut into or attached to any masonry surface or incombustible material.
- k. Home occupation signs, non-illuminated, attached to the wall of a dwelling, and not exceeding two (2) square feet in area.
- l. Temporary real estate development signs pertaining to the sale, rental, or development of the premises upon which displayed. One (1) sign is permitted per development. Each sign shall not exceed the following size limitations.

<b>Project Area</b>	<b>Residential</b>	<b>Commercial/Industrial</b>
Less than 10 acres	32 sq. ft.	32 sq. ft.
10.1 to 25 acres	150 sq. ft.	150 sq. ft.
Greater than 25.1 acres	300 sq. ft.	500 sq. ft.

- m. Signs shall be properly maintained and removed when 80 percent (80%) of the project is sold, rented, or developed.

**Sec 17.34.06. Prohibited Signs.**

- 1. The following signs are prohibited by this Section:
  - a. Signs that by reason of position, shape or color, would interfere with the proper function of a traffic sign, signal or be misleading to vehicular traffic.
  - b. Signs within a public right-of-way or easement, except for signs installed by governmental subdivisions.
  - c. Signs that resemble any official marker erected by a governmental agency or that display such words as "stop" or "danger," which are not erected by legal authority.
  - d. Signs attached to trees or utility poles.
  - e. Signs with rotating beam or flashing illumination.
  - f. Signs which project over any public right-of-way.

- g. Signs advertising by letters, words, or figures painted upon any sidewalk within the City.
- h. Advertising signs painted on any exterior building surface. Such signs shall be on a separate frame and shall not extend beyond eighteen (18) inches from the wall surface.
- i. Trademark signs in excess of two (2) persons per business.
- j. Projecting signs in the CB District, except signs projecting over public alleys, which shall not be less than fifteen (15) feet above such alley surface.
- k. Signs which project over in public right-of-way, except for canopy or awning signs which shall have a minimum clearance of seven (7) feet above a public sidewalk and wall signs in the CB District.
- l. Rotating signs.
- m. Signs painted or attached to vehicles where the vehicle is parked on a property and not intended to be moved.
- n. Electronic message signs with sudden movement, including, but not limited to, blinking and flashing.
- o. The following signs at all locations except those locations with zero yard space setback requirements.
  - i. Signs which obstruct the clear view triangle of any required egress from a building or structure.
  - ii. Where otherwise allowed in the setback, no ground sign or sign structures taller than three (3) feet shall be located within a clear view triangle area.

**Sec. 17.34.07. General Requirements.**

1. All signs shall be maintained by the owner in a safe condition. A sign shall be repainted whenever its paint begins to fade, chip, or discolor.
2. On-premise signs shall be removed from a building and property by the owner of such property within thirty (30) days after termination of the use for which it was intended.
3. If the Administrative Official shall find that any sign is unsafe, a detriment to the public, not maintained, or constructed, erected or maintained in violation of the provisions of this Section, the Administrative Official shall give written notice to the property owner thereof. If the property owner fails to comply with the standards of this Section within thirty (30) days after such notice, and if no appeal is taken, or if no owner, occupant, or agent can be found, such sign may be removed or altered by the City. The cost of such City action shall be specially assessed against the subject property.
4. All signs erected per this Section shall comply with the International Building Code, as amended from time to time.

5. In all commercial or industrial zones, the height of any free standing or pole signs which are intended to be viewed from an elevated four lane highway which identifies highway-oriented businesses and which signs are to be located within two hundred (200) feet of the highway right-of-way line may exceed district height standards provided that the maximum height to the top of the sign shall not exceed fifteen (15) feet above the grade elevation of such elevated four lane highway directly adjacent to such property on which the sign is positioned. All elevated signs shall be separated a minimum of four hundred (400) feet from another elevated sign. Elevated signs adjacent to residential uses shall require the issuance of a conditional use permit by the Board of Adjustment.
6. Parking signs are regulated in Section 17.3704.4.
7. Clustered or planned developments located on a single lot in GB, HB and ML Districts shall be permitted one (1) ground (joint identification) sign identifying the name of the development and/or businesses within the development and one (1) wall sign per business. Area of all signs shall not exceed the total allowable signage for the lot.
8. Sign height shall be measured from street or highway curb elevation to the highest point of the respective sign.

**Sec. 17.34.08. Non-Conforming Signs.**

1. Any sign legally existing on the effective date of this Section which does not conform to the requirements set forth in this Section shall be considered a non-conforming sign. Non-conforming signs shall comply with the following requirement:
  - a. Any sign erected before the passage of this Section shall be not rebuilt, moved to a new location on the affected property, or altered except for the changing of moveable parts of signs which are designed for changes, or the repainting of display matter for maintenance purposes without being brought into compliance with the requirements of this Section, except that existing signs painted directly on an exterior building wall as an off-premise advertising sign, deemed by the Board of Adjustment as having historical or cultural value, may be restored to its original condition by repainting.

**Sec. 17.34.09. Off-Premise Signs (Outdoor Advertising).**

1. In addition to the regulations set forth in 17.33.03.D Table 1 and 17.33.04.E Table 2, Off-premise signage shall meet the following standards:
  - a. When a sign is to be located along a designated highway where such sign is not adjacent to a front property line, there shall be minimum setback of five (5) feet.
  - b. The source light for the purpose of illumination may be indirect or direct and shall not be directed in any way except into the advertising copy.
  - c. The exposed uprights or superstructure shall be painted a neutral color.
  - d. The area around a ground-mounted off-premise sign shall be appropriately landscaped and regularly maintained.

- e. All ground support structures shall meet appropriate Building Codes.
- f. Off-premise signs located on a roof shall not be permitted.
- g. Wall-mounted off-premise signs shall be on a separate frame, shall not extend beyond eighteen (18) inches from the wall surface, and shall not exceed one-quarter (1/4) of the square footage of the wall it occupies or three hundred (300) square feet, whichever is lesser.

**Sec. 17.34.10. Temporary Signs.**

Temporary use of portable or moveable signs shall be allowed in excess of and in addition to the sign limitations of this Section. The following provisions shall apply:

1. Such signs may be located on a property for continuous periods not to exceed thirty (30) days.
2. No property shall be allowed more than four (4) such periods in any twelve (12) month period.
3. Such signs shall comply with setback provisions for ground signs in each zoning district.
4. Such signs shall only be permitted in commercial, office-residential, and industrial districts.
5. A permit (no fee) shall be obtained from the Administrative Official for each location and time period for placement of such signs.

**Sec. 17.34.11. Development Signs.**

1. In addition to the regulations set forth in 17.33.03.D Table 1 and 17.33.04.E Table 2, permanent signs identifying the name of a development or names of companies within a development shall conform to the following standards:
  - a. One (1) ground sign identifying the permanent name of the development or joint identification sign identifying the name of the development and businesses within the development. Such sign shall not exceed one hundred (100) square feet of display area.

**Sec. 17.34.12. Electronic Message Sign.**

1. Electronic message sign displays shall be limited to displays, which are gradual movements, including, but not limited to, dissolve, fade, scrolling, or traveling. However, sudden movement is prohibited, including, but not limited to, blinking and flashing.
2. Any permitted signs may be, or may include as an individual component of the total sign area, electronic message signs.
3. Electronic messages or graphic displays may be changed at periodic intervals by gradual entry and exit display modes provided that messages and animation shall be displayed at periodic intervals by various modes, such as fade, dissolve, scrolling, or traveling.

**Sec. 17.35. Recreation Equipment and Parking.****Sec. 17.35.01. Use of Major Recreation Equipment.**

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

**Sec. 17.35.02. Off-Street Parking and Loading-General Provisions.**

1. *Purpose:* It is the intent of these Ordinances that all buildings, structures and uses of land shall provide off-street parking and loading space in an amount sufficient to meet the needs caused by the building or use of land and that such parking and loading spaces be so oriented that they are in fact readily usable for such purpose. Because of the pedestrian orientation of the core of the central business district it is intended that parking be provided at the periphery of the core.
2. Each use of land and each building or structure hereafter constructed or established, and each addition to a structure in excess of three hundred (300) square feet, except as herein provided, shall provide off-street parking and loading according to the standards set forth herein. When an addition is made to a building nonconforming as to parking or loading, a conforming amount of parking shall be supplied based upon the size of the addition.  
*Exception:* In the Central Business District it is not desired that each building supply parking space to meet its full demands on or adjacent to its site in that such an arrangement would tend to spread the Downtown Parking Zone over too large an area to make pedestrian communication and interchange convenient.
3. No addition to an existing building shall be constructed which reduces the number of spaces, area or usability of existing parking or loading space unless such building and its addition, conform with the regulations for parking and loading contained herein. Contractual agreements may be made between uses which generate parking demand at different times in such a manner that the requirements of more than one use may be met by the same space provided the parking demand for each such use involved is in fact met.
4. All off-street parking and loading spaces, access and aisles shall be paved.  
*Exception:* In the “AG,” “RR,” “ML,” “MH,” and “HB” Districts the Board of Adjustment may allow an unpaved, dust-free parking surface where sufficient paved parking and maneuvering surface is provided for required parking spaces.
5. Uses listed below shall provide parking and loading in the amounts specified and at locations specified for the group in which such use falls. For any use not listed, the Board of Adjustment shall determine the proper requirement by classifying the proposed use among the uses specified herein so as to assure equal treatment. In making any such determination, the Board of Adjustment shall follow the principles set forth in the statement of purpose for the parking and loading provisions.

6. For the purpose of these Ordinances minimum parking space dimensions and aisle widths shall be regulated in accordance with the following table. Each such space shall, be readily accessible and aisles required for access to any space shall not be counted in meeting the requirements for spaces. Required parking space shall not be provided within a required front yard.

<b>Required Minimum Off-Street Parking Dimensions</b>				
<b>Angle (Degrees)</b>	<b>Stall Length</b>	<b>Stall Width</b>	<b>Aisle Width (1-way)</b>	<b>Aisle Width (2-way)</b>
90	18'	10'	26'	26'
60	18'	10'	18'	20'
45	18'	10'	12'	20'
30	18'	10'	10'	20'
0(parallel)	22'	10'	10'	20'
<b>NOTE TO TABLE:</b> Exception: Ninety-degree parking immediately off an alley requires 10 feet by 20 feet stalls and the aisle width of 20 feet being provided by the alley				

**Sec. 17.35.03. Group A:**

All uses of land and buildings enumerated under Group A shall provide off-street parking and loading space on the same parcels as such use or building and said parking or loading space shall have convenient and unobstructed pedestrian access across said parcel to a principal entrance to the building or use as hereinafter set forth.

<b>USE</b>	<b>PARKING REQUIRED</b>	<b>LOADING SPACE REQUIRED</b>
1. Dwellings	Two for each dwelling unit. (Not more than one parking space may be located in the front yard.)	None
2. Apartment houses	Two for each dwelling unit in a building containing 4 or more dwellings units.	One for any building containing 10 dwelling units plus one additional space for each additional 20 units or major fraction thereof.
3. Boarding, rooming and lodging bedroom, houses.	One for each.	None
4. Doctor's offices, medical and dental clinics.	5 spaces for each medical or dental practitioner.	None

USE	PARKING REQUIRED	LOADING SPACE REQUIRED
5. Restaurants, beer parlors, taverns, bars, night clubs.	One for each 2.5 seats.	One
6. Retail stores, Shops and strip malls.	One for each 300 square feet of gross floor area.	One for the first 5,000 square feet plus one for each additional 30,000 square feet or major fraction thereof.
7. Furniture and appliance sales & furniture and appliance repair.	One for each 500 square feet of gross sales space and repair space.	One for the first 5,000 square feet plus one for each additional 20,000 square feet or major fraction thereof.
8. Funeral homes and mortuaries.	One for each 3 seats in chapels or one for each 50 square feet of public area, whichever is greater.	One for each hearse, ambulance, or other non-passenger vehicle.
9. Real estate sales offices.	Two for the first 200 square feet plus one for each 100 square feet of office space.	None.
10. Small item service & repair shop.	One space for each 200 square feet of gross floor area.	One for the first 400 square feet of gross floor area plus one space for each additional 5,000 square feet or major fraction thereof.
11. Beauty and barber shops.	Two for each operator.	None.
12. Automotive or machinery sales and service garages.	One for each 400 square feet of floor area.	One for each 5,000 square feet of gross floor area.
13. Bowling alleys.	Five for each alley.	None unless beer parlor or restaurant is attached, then one space.

USE	PARKING REQUIRED	LOADING SPACE REQUIRED
14. Roller and ice rinks, intensive sports and recreation establishments and dance halls.	One for each 3 fixed seats or one for each 100 square feet of gross floor area of public space as appropriate.	None.
15. Banks and professional offices and general offices.	One for each 300 square feet of floor area.	None, except that buildings of over 10,000 square feet shall meet requirements of 17.35.04 Group B (5).

**Sec. 17.35.04. Group B:**

All uses of land, or buildings enumerated under Group B shall provide off-street parking and loading on the same parcel as such building or use for all customers or patrons frequenting the establishment and said parking or loading space shall have convenient and unobstructed pedestrian access across said zoning lot to a principal entrance to the building or use. That portion of the parking requirement that is attributed to employees may be provided within three hundred thirty (330) feet of the use or building as hereinafter set forth.

USE	PARKING REQUIRED	LOADING SPACE REQUIRED
1. Hotel, apartment hotel, motel, club with guest rooms, multiple family dwellings.	One space for each unit for the first 20 units, plus one space for each 2 units for those in excess of 20 on each site. Plus one space for each 2 employees on the largest shift.	One space for the first 40,000 square feet of floor area or fraction thereof plus one space for each additional 150,000 square feet of floor area or major fraction thereof.
2. Hospitals and rest homes.	One space for each 4 beds plus one space for each 2 staff physicians on site, plus one space for each 3 employees of all classes on the largest shift.	One space for the first 40,000 square feet of floor area or fraction thereof plus one space for each additional 150,000 square feet of floor area or major fraction thereof.

USE	PARKING REQUIRED	LOADING SPACE REQUIRED
3. College fraternities, college sororities.	One space for each 2 bedrooms. Half of requirement may be off-site.	None.
4. Clubs, organization halls.	One space for each 100 square feet of assembly space on site, plus one space for each 2 employees.	None.
5. Single occupancy office buildings of 10,000 square feet or over (if less than 10,000 square feet see general office	One space for each 500 square feet of gross floor area on site, plus one space for each 600 square feet on or off-site.	One space for the first 10,000 square feet plus one space for each additional 40,000 square feet of gross floor area or major fraction thereof.
6. Wholesale stores with stock of goods, (without stock, see general	One space for each 400 square feet of gross floor area. At least half of requirement shall be on site.	One space for the first 6,000 square feet of gross floor area plus one space for each additional 20,000 square feet of gross floor area or major fraction thereof.
7. Warehouses.	4 spaces for the first 5,000 square feet of gross floor area, plus one additional space for each additional 5,000 square feet or major fraction thereof; 25% of total requirement shall be on site.	2 spaces for the first 5,000 square feet of gross floor area plus one space for each additional 10,000 square feet of gross floor area or major fraction thereof.

### Sec. 17.35.05. Group C:

All uses of land and buildings enumerated under Group C shall provide off-street loading on the same parcel as such building or use and such loading space shall have convenient and unobstructed access to said building or use. Parking requirements for customers, patrons and employees may be provided within 600 feet of said use or building except as hereinafter set forth.

USE	PARKING REQUIRED	LOADING SPACE REQUIRED
1. Auditoriums, stadiums (except school), theaters, community centers and similar places of public assembly.	One space for each 5 seats in the main assembly area, or where no fixed seats are provided, one space for each 50 square feet of main assembly area.	None.
2. Churches.	One space for each 4 seats in the main assembly area.	None.
3. Libraries, museums and similar uses.	One space for each 400 square feet of gross space to which the public has access.	One space for the first 5,000 square feet of gross floor area plus an additional one space for each additional 10,000 square feet of gross floor area or major fraction thereof.
4. Senior high schools, junior high schools (including public, parochial and private).	One space for each teacher or employee except that where living accommodations for such teachers or employees are provided on or near the site. This requirement may be satisfied by the parking provided for the living quarters so provided, plus one space for each 100 square feet of seating space in the auditorium or multi-purpose room, whichever is larger.	None.
5. Manufacturing freight terminals.	4 spaces for each 10,000 square feet of gross floor area or major fraction thereof plus one space for each employee on the largest warehouse.	Sufficient to allow for completely off-street loading operation but in no event, less than required herein for a shift.

**Sec. 17.36. Structures to Have Access.**

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to private streets approved by the Board of Adjustment, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

**Sec. 17.37. Adult Uses.****Sec. 17.37.01. Intent.**

In the development and execution of these regulations, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

**Sec. 17.37.02. Setbacks.**

1. None of the following uses may be established, operated or maintained within one thousand (1,000) feet of a residence, a church, a school meeting all the requirements of the Compulsory Education Laws of the State of South Dakota, or a public park.
  - a. Adult bookstore.
  - b. Adult motion picture theater.
  - c. Adult photo studio.
  - d. Adult Entertainment Facility.
  - e. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
  - f. Any use intended to provide adult amusement or entertainment.
2. Not more than two of the following uses may be established, operated or maintained within one thousand (1,000) feet of each other:
  - a. Adult bookstore.
  - b. Adult motion picture theater.
  - c. Adult photo studio.

- d. Adult entertainment facility.
  - e. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.
  - f. Any use intended to provide adult amusement or entertainment.
  - g. A bar.
  - h. A liquor store.
3. The 1,000-foot restriction provided for in 17.36.01.2 above may be waived and a conditional use permit issued upon proper application if the Board of Adjustment finds:
- a. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of these regulations will be observed.
  - b. That the proposed use will not enlarge or encourage the development of a 'skid row' area.
  - c. That all applicable regulations will be observed.

**Sec. 17.37.03. Required License.**

It shall be unlawful for any person to engage in the business of operating an adult use in the City of Madison without first having obtained a license from the City Commission.

**Sec. 17.37.04. Application; Standards for Issuance.**

1. Application for an adult use license shall be made in writing and shall state the following:
- a. The name, address, telephone number and age of the applicant and the registered agent of the applicant if the applicant is a corporation.
  - b. The location of the adult use business.
  - c. The exact nature of the adult use to be conducted and of the proposed place of business and the facilities related thereto.
  - d. A statement by the applicant that he is familiar with the provisions of this article and is in compliance with them.
  - e. A statement of whether the business will be conducted by a manager and, if so, the name, address, telephone number, and age of each such manager.
  - f. A statement that no manager or principal operating the business has been convicted of any offense of prostitution, soliciting for prostitution, or obscenity or public indecency as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use in any other community revoked within the last two (2) years.

2. Within fifteen (15) days after receipt of an application for an adult use license, the City Commission shall investigate the information contained in the application and shall determine the following:
  - a. That the premises designated by the applicant as the location of the business are in full compliance with all applicable ordinances of the City, including zoning ordinances.
  - b. That the premises and each manager and employee comply with the provisions of Section 4.07.04.1 as such provisions apply to them.
  - c. That the applicant, each manager and each employee are over twenty-one (21) years of age.
  - d. That no manager or principal operator of the business has been convicted of any offense of prostitution, solicitation for prostitution, or obscenity or public indecency, as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use revoked within the last two (2) years.
3. If the investigation shows the compliance of the applicant for an adult use license, the premises upon which the business is to be conducted and each manager and employee, if applicable, with each of the requirements established in subsections (1) and (2) of this section, and with the conditions and regulations set forth in Section 17.36.04 within fifteen (15) days after completion of such investigation, the City Commission shall issue a license, and upon payment by the applicant of the license fee required under this article, the license shall be issued.
4. If the investigation shows that the applicant for an adult use license, the premises on which the business is to be conducted, or the managers and employees, if applicable, do not comply with each of the requirements established in subsection (1) of this section, and with the conditions and regulations set forth in Section 17.36.05 within fifteen (15) days after completion of such investigation, the City Commission shall notify the applicant in writing that the license has been denied. Such denial shall be the final administrative action of the City with respect to the license application, and shall be subject to the immediate appeal by the applicant to the circuit court.

**Sec. 17.37.05. Conditions & Regulations Governing Operation; Violation; Penalty.**

1. The following regulations shall govern and control the business of operating an adult use in the City of Madison:
  - a. No person under twenty-one (21) years of age shall be allowed on the licensed premises.
  - b. At all times during the hours of operation there shall be present a manager or other employee of the licensee who shall be not less than twenty-one (21) years of age.
  - c. Upon a change of any manager conducting business for the licensee, the licensee shall, within ten regular business days, give the City Commission written notice of such change by actual delivery or by registered or certified mail. The licensee shall, thereafter, as promptly as practicable, but in any event within five (5) regular business days, provide the information concerning the new manager which is required in Section 17.36.04.

- d. No adult use shall be located on premises for which a license to sell alcoholic liquor has been issued, and no alcoholic liquor shall be permitted on such premises.
  - e. No adult use shall be permitted unless the premise on which such business is located complies with the requirements of the zoning ordinance.
  - f. No licensee or manager under the provisions of this article shall knowingly permit any person to remain in or upon licensed premises who commits any act of public indecency or obscenity as defined in the South Dakota Compiled Statutes.
  - g. No licensee or manager under the provisions of this article shall permit any act of prostitution, solicitation for prostitution or patronization of a prostitute on the licensed premises.
  - h. No sign shall be posted on the licensed premises which depicts, displays or refers to specified anatomical areas or specified sexual activities, as defined in this article.
2. In addition to the requirements established in Section 17.36.05.1, the following regulations shall govern and control the operation of an adult bookstore which offers any films or videotapes for viewing on premises by use of motion picture devices or other such operations means:
- a. All viewing areas, which shall be defined as the area where a patron or customer would ordinarily be positioned while watching a film or viewing device, shall be visible from a continuous main aisle or public room and shall not be obscured by any curtain, door, wall or other enclosure.
  - b. There shall be no aperture whatsoever in any wall or partition between viewing areas.
  - c. Each viewing area shall be lighted at a minimum level of ten (10) foot candles in all parts thereof.
3. In addition to the requirements established in Section (1) of this section, the following regulations shall govern and control the operation of an adult entertainment facility:
- a. All performers shall be at least twenty-one (21) years of age.
  - b. All performances, exhibitions or displays shall take place on a platform raised at least two feet from the level of the floor, and located at least ten (10) feet from any patron.
  - c. No performer shall fondle or caress any patron or other performer and no patron shall fondle or caress any performer.
  - d. No patron shall be permitted to pay or give any gratuity to any performer, and no performer shall solicit any pay or gratuity from any patron.

4. It shall be unlawful for any person licensed to engage in the business of operating an adult use within the City to fail to comply with the conditions and regulations set forth in subsections 17.36.04 and 17.36.05 of this section as they are applicable to the licensed business, or to suffer or permit non-compliance with such conditions and regulations on or within the licensed premises. In this regard, any act or omission of an employee shall be deemed the act or omission of the owner if such act or omission occurred either with the authorization, knowledge or approval of the owner or as a result of the owner's negligent failure to supervise the employee's conduct. All conduct occurring while on the premises shall be presumed to be the responsibility of the owner.
5. Any person convicted of a violation of this section shall be subject to a fine pursuant to Section 17.01.02 of this Ordinance.

**Sec. 17.37.06. Suspension or Revocation.**

Nothing in the terms of this article shall preclude the right of the City Commission to suspend or revoke the license of the licensee, as follows:

1. The City Commission may temporarily suspend any license issued under the terms of this article when he has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven (7) days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven (7)-day period, and further provided that if such licensee shall also be engaged in the conduct of other business on the licensed premises, such order shall not be applicable to such other businesses.
2. The City Commission may suspend or revoke any license issued under the terms of this article upon ten (10) days notice to the licensee of the time and place of a public hearing, and a public hearing at which the licensee may appear and present evidence, if the City Commission determines upon such hearing that the licensee has failed or refused to comply with the terms of this article, has failed or refused to comply with other law applicable to the business of operating an adult use, has knowingly permitted the failure of any manager or employee on the premises to comply with the terms of this article or with other law applicable to the business of operating an adult use, has knowingly furnished false or misleading information on any application required for any license under this section or has suffered or caused another to furnish or withhold such information on his behalf, or has been convicted by a court of competent jurisdiction of a violation of any provision of this section.

**Sec. 17.38. Yards.**

Any building, structure or use hereafter erected, altered or established shall comply with the yard space requirements of the zone in which it is located except as specified below. The required yard space for any building, structure, or use shall be contained on the same parcel as the building, structure or use and such required yard space shall fall entirely upon land in a zone or zones, which the principal use is permitted. Any required yard space shall be open from thirty (30) inches above the ground to the sky except as specified herein.

No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

**Sec 17.38.01. Yards, Reduction in Size.**

No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein, except to provide for the extension, establishment, or widening of a public street or highway. Yards and lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

**Sec. 17.38.02. Additional Yard Requirements.**

The following yard requirements must be observed in addition to the yard requirements of the various districts:

1. Except in the, "A", and "CB" Districts, a corner lot must have a front yard on both streets, provided however, that the buildable width of such lot shall not be reduced to less than thirty-eight (38) feet. In no instance shall the yard on the side street of a corner lot be reduced to less than fifteen (15) feet.
2. On through lots and reversed frontage lots, a front yard must be provided on both streets.
3. Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.

**Sec. 17.38.03. Exceptions to Yard Requirements.**

The following exceptions may be made to the yard requirements:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.
2. Open, uncovered decks, porches or landings no higher than the first floor above grade on the side of the building to which they are appurtenant and in no event higher than thirty (30) inches above grade of the lot on the side of the building where such deck, porch or landing is located, may extend into any required yard. No railing or other barrier higher than forty-two (42) inches shall be placed around such porch or terrace and no such barrier which interferes appreciably with the passage of light or air shall be within five (5) feet of any property line, except as otherwise provided in this Ordinance. Any such deck, porch or landing when located on a lot at the intersection of two (2) streets or a street and an alley shall not interfere with the Clear View Triangle.

3. Canopies and overhangs on any side of a business building may extend four (4) feet into a required yard space. Signs mounted on the face of any such canopy or overhang shall not exceed eight (8) inches in height in any zone in which flat wall signs are specified. Canopies and awnings on a residential building may extend four (4) feet into any required side yard or seven (7) feet into any required front or rear yard when they are attached to and supported entirely by or from a wall of the building.
4. Automobile storage garages may be allowed within a required front or side yard when such garage will be entirely below the grade of the lot and after a finding by the Board of Adjustment that topographic conditions make such a location necessary, that such orientation will not create a hazard to automobile or pedestrian traffic in the street, and that such orientation will be in harmony with the character of development of the neighborhood.
5. Filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.
6. Eaves, cornices and similar features may extend four inches into a required yard space except that eaves may encroach one (1) foot into a yard space when such yard space is greater than two (2) feet and eight (8) inches and less than eight (8) feet in width and except that eaves may encroach three (3) feet into a yard space when such yard space is ten (10) feet or more in width.

**Sec. 17.39. Erection of More than One Principal Structure on a Lot.**

In any district except the “MU-E” Overlay District, only one (1) structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements are met.

**Sec. 17.310. Exceptions to Height Regulations.**

1. **Appurtenances.** Except when they would violate the height restrictions of an aircraft approach and turning zone the height limitations contained in Article II Schedule of District Regulations do not apply to the following appurtenances provided they are normally required for a use permitted in the zone in which they are erected or constructed: flagpoles, chimneys, cooling towers, elevator bulkheads, belfries, penthouses for other than living purposes, grain elevators, stacks, silos, storage towers, observation towers, ornamental towers, monuments, cupolas, domes, spires, standpipes and other necessary mechanical appurtenances and their protective housing; provided, however, that any of the above except flagpoles and chimneys when located in any zone with a height limit of forty (40) feet or less, shall be allowed only upon finding of the Board of Adjustment that such appurtenances will not be unduly detrimental to the surrounding property.
2. **Electronic Towers.** Radio, television, microwave and other electronic transmission or receiving towers in excess of height limits may be allowed in any zone as a conditional use upon a finding by the Board of Adjustment that topographic or other physical consideration make it necessary that they be located outside a zone where they are permitted as a matter of right and that the proposed tower or towers will not be unduly detrimental to surrounding property. Exceptions to height restrictions shall not be granted in cases where they would violate height restrictions of an aircraft approach and turning zone.

3. **Public and Semi-Public Buildings.** Public and semipublic buildings and structures such as hospitals, churches, sanitariums, schools and water reservoir towers may exceed the height limits of the zone in which they are located, provided that such buildings and structures shall provide at least one additional foot of yard space on each side for each additional foot that such building or structure exceeds the specified height limit of the zone in which it is located and further provided that a finding is made by the Board of Adjustment that such additional height will not be materially detrimental to surrounding property.

**Sec. 17.311. Private Wastewater Treatment Systems (Septic Tanks).**

With the exception of those located in the “RR” Rural Residential District greater than two hundred (200’) from a main sewer line, all existing septic tanks shall be considered non-conforming Uses. Any new construction or substantial improvement must be connected to the City's sewer system.

**Sec. 17.312. Modular, Manufactured and Mobile Home Provisions.**

1. Modular homes shall meet the following regulations:
  - a. Modular homes shall meet or exceed International Building Cod 2006.
  - b. Modular homes will include off-site constructed homes, which may be transported to the site in one or more sections.
  - c. Modular homes shall have more than 1,000 square feet in ranch style and 850 square feet split and be placed on a permanent foundation. Minimum width shall be 24 feet. The foundation shall be to a depth below the frost line.
  - d. Modular homes shall have a minimum of a 4/12 roof pitch.
  - e. Modular homes shall have vinyl or wood lap siding material of a type customarily used on site-constructed residences.
  - f. Modular homes shall have roofing material of a type customarily used on site-constructed residences.
2. For the purpose of this Ordinance, manufactured homes and mobile homes will be regulated by type. Three types of homes are defined under these regulations.
  - a. Type I manufactured home shall:
    - i. Have more than one thousand one hundred (1,100) square feet of occupied space in a double-section or larger multi-section unit.
    - ii. The age of the manufactured house may not exceed five (5) years from the date of manufacture.
    - iii. Be placed on a permanent foundation. The foundation shall be:

- a. to a depth below the frost line, and
- b. either (a) an approved wood basement constructed of 2 x 6 framework and treated with water resistant materials; or (b) constructed with eight (8) inches poured concrete or concrete block. The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be six (6) inches below grade.
- iv. Shall utilize an approved permanent perimeter enclosure in accordance with approved installation standards, as specified in subsection (3). Type I homes located in a RM District may be, enclosed with foundation siding/ skirting, in accordance with approved installation standards, as specified in subsection (3).
- v. In the RM District, be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the ANSI/NFPA 501A Standards.
- vi. Have a gabled roof with a pitch of at least 2/12 feet.
- vii. Have vinyl or wood lap siding material of a type customarily used on site-constructed residences.
- viii. Have roofing material of a type customarily used on site-constructed residences.
- b. Type II manufactured home shall:
  - i. Have more than seven hundred (700) square feet of occupied space in a single, double, expando or multi-section unit.
  - ii. Be enclosed with foundation siding/skirting, in accordance with approved installations standards as specified in subsection (3).
  - iii. Be anchored to the ground, in accordance with manufacturer's specifications, as prescribed by the TR-75, issued June 1972 by the U.S. Department of Defense, or as prescribed by the ANSI/ NFPA 501A Standards.
  - iv. The age of the manufactured house may not exceed fifteen (15) years from the date of manufacture.
  - v. Be placed onto a support system, in accordance with approved installation standards, as specified in subsection (3).
  - vi. Have a gabled roof with a pitch of at least 2/12 feet.
  - vii. Have siding material of a type customarily used on site-constructed residences.
  - viii. Have roofing material of a type customarily used on site-constructed residences.
- c. Type III mobile home shall:
  - i. Have more than three hundred twenty (320) square feet of occupied space.
  - ii. Be enclosed with foundation siding/skirting, in accordance with approved installation standards, as specified in subsection (3).

- iii. Be anchored to the ground in accordance with manufacturer's specifications, as prescribed by the TR-75, issued June 1972 by the U.S. Department of Defense, or as prescribed by the ANSI/ NFPA 50 IA Standards.
  - iv. Be placed onto a support system in accordance with approved installation standards, as specified in subsection (iii).
3. Installation Standards.
- a. Permanent Perimeter Enclosure as Required for Type I, II and III Manufactured Homes: Those manufactured homes designated in this Ordinance as requiring permanent perimeter enclosure must have footings and crawl space or basement walls. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings). All manufactured homes be installed on a "properly engineered" foundation system that meets the manufacturer's installation requirements, defined as a foundation system that provides adequate support of the home's vertical and horizontal loads and transfers these and other imposed forces, without failure, from the home to be undisturbed ground (below the frost line).
  - b. Foundation Siding/ Skirting--All manufactured or mobile homes without a permanent perimeter enclosure shall have an approved foundation siding/ skirting enclosing the entire perimeter of the home.
  - c. Support System
    - i. All HUD-Code manufactured homes of the Type I classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.
    - ii. Type II and III manufactured homes and all mobile homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANSI/NFPA 501A 1977 installation standards.
4. Non-Conforming Homes.
- A manufactured or mobile home placed and maintained on a tract of land and deemed to be a legal nonconforming use prior to the adoption of this Ordinance, shall continue to be a legal nonconforming use. If the non-conforming use is discontinued, the land thereafter must be used in conformity with all provisions of this Ordinance.
5. Structural Alteration.
- Due to its integral design, a building permit shall be required prior to any structural alteration or modification of a manufactured home after it is placed on the site must be approved by the Administrative Official.
6. Variance from Maximum Age Requirement

Type I and Type II manufactured homes may receive a variance from the maximum age requirement (Sections 17.311.2.a.ii and 17.311.2.b.iv). The Board of Adjustment may grant a

variance if the applicant requesting the placement of the manufactured home meets the following requirements:

- a. The applicant shall provide a photograph of the manufactured home's exterior and interior.
- b. That it shall have been shown to the satisfaction of the Board of Adjustment that the said manufactured home complies with the gas, plumbing, electrical and construction requirements of the City of Madison.

### **Sec. 17.313. Manufactured Housing Park.**

Regulations regarding mobile homes/ manufactured housing shall meet the following minimum standards:

1. **Streets.** Each manufactured housing lot shall abut or face a public or private roadway or street, such roadway or street having an all-weather surface of at least thirty-four (34) feet in width where parking is permitted on both sides, and twenty-eight (28) feet in width where parking is restricted to one side only. Where private streets are proposed, they shall have a minimum right-of-way of forty (40) feet.
2. **Open Space or Buffer Zone.** The manufactured housing park shall be surrounded by a landscaped open space fifty (50) feet wide along the street frontage of a major street and twenty-five (25) feet wide around the perimeter of the park, except where walks and drives penetrate the buffer.
3. **Lot Area.** Each lot provided for the occupancy of a single manufactured housing unit shall have an area which conforms to the Area Regulations of the "RM" District as described in Section 17.19.05. Each lot shall be defined by markers at each corner.
4. **Density.** No park shall be permitted an average net density of manufactured housing lots of more than six (6) per acre and each park shall provide an area of not less than five (5) acres.
5. **Spacing and Yard Requirements.** All manufactured housing units will be positioned on the mobile home space in compliance with the requirements of the conditional use permit provisions granted by the City Commission and in accordance with the zoning requirements at the time of establishment of the manufactured housing park.
6. **Manufactured housing parks established after December 1, 1995, will comply with the spacing requirements of the conditional use permit in accordance with the following:**
  - a. **Front Yard.** Front yards shall be regulated in accordance with the Front Yard Requirements of the "RM" District as described in Section 17.19.05. The distance will be measured from the wall of the structure to the street or roadway at the closest point.
  - b. **Side and Rear Yards.** Side and rear yards shall be regulated in accordance with the Side Yard and Rear Yard Requirements of the "RM" District as described in Section 17.19.05. The distance will be measured at the closest point.

- c. Exceptions.
    - i. A garage, canopy, or carport may project into a required side or rear yard provided it is located no closer than ten (10) feet to another mobile home, garage, canopy, carport, or addition thereto, and provided further that the maximum depth be twenty-four (24) feet.
    - ii. A deck may project into a required side or rear yard provided it is located no closer than four (4) feet to another structure.
    - iii. An enclosed vestibule containing not more than forty (40) square feet in area may project into a required yard for a distance not to exceed four (4) feet, but in no event closer than ten (10) feet to another mobile home, garage, canopy, carport, or addition thereto.
    - iv. Detached accessory buildings with a projected room area of not more than one hundred and twenty (120) square feet may project into a required side or rear yard provided it is located no closer than four (4) feet to another structure or right-of-way.
  - d. Maximum Lot Coverage. No manufactured home shall occupy more than twenty-five percent (25%) of the area of the lot on which it is situated.
7. Parking. Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set aside in a location convenient to the occupants of the trailer or camping units and shall have ingress and egress by means of a public way. Where parking areas are provided adjacent to a public street, ingress and egress thereto shall be made accessible only through driveways or openings not exceeding twenty-five (25) feet in width in the curb line of said street.
  8. Park/Recreation Area. An area for a park/recreation facility shall be provided. One (1) lot shall be the minimum space required. The Planning Commission shall choose the location and may further require additional space contingent upon the size of the manufactured housing park. This requirement may be waived by the Planning Commission.
  9. Storm Shelter. A minimum of seven (7) square feet per unit of storm shelter area shall be provided. A shelter shall be constructed in conjunction with the initial development of a manufactured home park. This requirement may be waived by the Planning Commission in lieu of an approved emergency shelter plan.
  10. On-Site Management. Each manufactured home park shall provide on-site management by the owner or his representative at all times to supervise the management, repairs, maintenance and janitorial work connected therewith and to see that all provisions of this Chapter are complied with.
  11. Refuse Collection. One refuse collection station shall be provided, with a minimum of one (1) two-yard dumpster situated on a concrete, screened on four sides, for each twelve (12) families or fractions thereof, conveniently located to serve tenants not more than one hundred fifty (150) feet from any trailer unit served, and to be conveniently located for collection.

12. Water Supply and Distribution System and Sewage Disposal. Each manufactured home shall be connected to the City sewer and water system.
13. Tie-Down Requirements. All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Administrative Official, shall be anchored to the ground, in accordance with the manufacturer's specifications or as prescribed by the TR-75, issued June 1972, by the US Department of Defense.
14. Maximum Age Limitation. No manufactured home placed within a manufactured home park within the City limits of Madison may exceed fifteen (15) years from the date of manufacture.
15. Expansion. Established and existing mobile home/manufactured housing parks may be extended to a total area of less than five (5) acres provided the area of expansion complies with all other regulations herein set forth and provided that a conditional use permit has been obtained for such expansion.
16. Building/Moved-in Building Permit Required. Whenever a manufactured home is moved into a manufactured home park, a permit from the Administrative Official shall be required.
17. Skirting. All manufactured homes, regardless of location – unless such manufactured homes are securely anchored to a permanent foundation to be approved by the Administrative Official, shall be skirted within thirty (30) days of placement.

**17.313.01. Application Procedure.**

1. Each application for a Manufactured Home Park shall be accompanied by a development plan incorporating the regulations established herein. The plan shall be drawn to scale and indicate the following:
  - a. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to Federal, State highways and to County, Township, or City roads and streets.
  - b. Property lines and square footage of the proposed park.
  - c. Location and dimensions of all easements and right-of-ways.
  - d. Proposed general lay-out, including parking and recreation areas.
  - e. General street and pedestrian walkway plan.
  - f. General utility, water, and sewer plan.
2. Upon approval of the application, the plan becomes part of the permanent record and it shall serve as the basis for the final site plan submission.

**17.313.02. Manufactured Housing Subdivisions.**

Nothing in this Ordinance shall be construed to prohibit subdividing an approved manufactured housing park development into individual owner occupied lots. However, any such development shall be required to meet the subdivision regulations of the City of Madison.

**Sec. 17.314. Utility Easements.**

No building or addition thereto shall be erected over or across any existing public utility or upon any platted or recorded easement.

**Sec. 17.315. Moved in Building Provisions.**

It shall be unlawful to move any house or other building greater than one hundred twenty (120) square feet onto any lot or to any new location within the City unless and until a building permit has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met:

1. The fee for said permit shall have been paid.
2. That it shall have been shown to the satisfaction of the Administrative Official that said house or other building complies with the gas, plumbing, electrical and construction requirements of the City of Madison.
3. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
4. If a permit to move a building from a lot is granted, the applicant shall agree to restore the lot to a buildable condition. This may include but is not limited to concrete basement removal, collapsing of the basement walls, earthwork, landscaping and/or reseeded.
5. The applicant may be required to file with the Finance Officer a sufficient bond conditioned so that the applicant will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds and to insure that any site reclamation work is completed. No building shall be moved other than during the period from daylight to sundown.
6. If a building or structure is to be moved onto any lot within the City, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.
7. Any building which is not newly constructed shall also meet the following minimum requirements to obtain a permit:
  - a. That a bond shall be furnished with sufficient sureties to be approved by the Administrative Official to the City of Madison to guarantee that the building will be placed on an adequate foundation, will be attached to the City electrical, water and sewer service where available, and that the property on which said building is to be located will

- b. be properly landscaped and seeded in accordance with the requirements of the Administrative Official, said bond to be in a minimum amount of one thousand dollars (\$1,000). In the event that said moved in building does not comply with City standards within 12 months, forfeiture of the bond amount will result.
- c. A conditional use permit has been approved (where required) by the Board of Adjustment.

**Section 17.316. Stabling, Pasturing, Kenneling.**

1. The stabling, pasturing, raising of livestock on agriculturally zoned parcels shall require a conditional use permit.
2. The definition of a feedlot does not apply to the stabling, pasturing, raising of livestock for which a conditional use permit has been granted.
3. The following performance standards shall apply to the uses indicated. They shall be supplemental to and in addition to other provisions applying to the property.
4. Corrals and winter quarters, but excluding feedlots, in which animals are kept at a density of over ten (10) head per acre or where feed bunkers or water are placed so that animals naturally tend to bunch-up shall not be closer than three hundred (300) feet from any lot line adjoining properties which are used for residential, commercial or light manufacturing purposes.
5. Such winter quarters, or corrals, shall maintain drainage so as to avoid excessive concentration of contaminated water and such drainage shall be so arranged that contaminated water does not drain to water courses in such a manner that it reaches neighboring properties at a concentration noticeable to normal senses.
6. Manure in winter quarters or corrals shall not be allowed to accumulate to objectionable proportions and each feeding pen shall be scraped at least once a month, weather permitting.
7. Adequate fly spray shall be applied to all of the feeding area during fly season and oftener if necessary to control the fly population.
8. All dead animals shall be removed within twenty-four (24) hours.
9. Feed shall be limited to fresh materials and shall not include sour silage, sugar beet pulp, paunch manure, garbage, or other materials which may have a tendency to create objectionable odors.
10. Kennels containing more than three (3) dogs over six (6) months of age, and poultry houses shall be placed no closer than two hundred (200) feet from the lot line when adjoining property is used for residential, motel, hotel or cabin resort purposes.

**Sec. 17.317. Landscape and Lighting Standards.**

**Sec. 17.317.01. Purpose.**

1. It is the desire of the City of Madison to encourage development that enhances the environmental and aesthetic conditions that contribute to the quality of life we have in Madison. To achieve this, a minimum standard of a landscaped setback and landscape features are prescribed to lessen the adverse effect common to commercial property.
2. This Ordinance is to apply to all HB, GB, NB, ML, and MH zoned property.
3. No provisions of this Ordinance shall apply retroactively, and the Ordinance shall not apply to any building permit issued prior to the effective date hereof.

**Sec. 17.317.02. Definitions.**

*Tree:* A tree which is required by this Ordinance and meets or exceeds the following minimum specifications according to tree type.

*Deciduous shade tree:* A minimum of one and one-quarter inch caliper measured at a point six inches above immediate ground level and normally capable of reaching a mature height of 30 feet.

*Deciduous ornamental tree:* A minimum of one inch caliper measured at a point six inches above immediate ground level and normally growing to a height less than 30 feet at maturity.

*Evergreen or coniferous tree:* A minimum height of four feet measured above immediate ground level.

**Sec. 17.317.03. Landscape Plan Required.**

In every case where landscaping is required, the applicant for a building permit shall submit a landscape plan prepared in accordance with the provisions of this section. The landscape plan shall include the following:

1. Name and address of developer/owner.
2. Site Map: One scale drawing of site based upon survey of property lines showing streets, easements, existing and proposed buildings, and existing and proposed parking.
3. Landscape Proposal: Two scale drawings of proposed landscaping showing details of planting beds, foundation plantings, sodded and seeded areas, screening, location and identification of trees, and location of landscape islands with identification of plant material used.
4. Planting Schedule: A table containing common and botanical names, size, root specifications, and planting dates.

**Sec. 17.317.04. Regulations and Standards.**

1. Artificial Plantings.

Artificial plantings are not acceptable under this Ordinance.

2. Required Landscaping of Front Yard Setbacks.

A minimum width of 10 feet of the required front yard setback shall be maintained in living ground cover excluding necessary hard surfacing of driveways to reach allowable parking areas.

3. Trees:

Valuing the benefits provided from the use of trees in reducing heat and pollution, the following standards regarding trees shall be met and maintained.

- a. Total number of trees required; one tree per 50 feet of frontage or one tree per 6 parking, loading and stacking spaces provided on site, whichever is greater.
- b. Placement according to type and percentage allowed: Deciduous shade tree - may be utilized for 100 percent of total tree requirement and is the only tree to be utilized for interior trees or optional right-of-way planting. No more than 25 percent of the total tree requirement may be planted in the right-of-way boulevard area, if approval is given. Deciduous ornamental and evergreen or coniferous trees - Up to 25 percent of the required trees may be deciduous ornamental, evergreen or coniferous trees; however, they shall not be planted in a driveway or intersection nor utilized for parking lot interior trees or right-of-way plantings.
- c. Interior tree requirements for parking areas exceeding 50 spaces: One tree per 25 interior parking spaces, equally spaced, in planting islands within hard surfaced area. Islands to be minimum of 5 feet wide and contain a minimum of 35 square feet per tree with raised curbs or wheelstops.
- d. Existing trees: The City encourages preservation of existing trees on site that meet the minimum size requirement and are properly located to satisfy the standards of this Ordinance.

4. Parking Lot Buffer Areas.

A setback area of at least 5 feet shall be provided between the parking surface and property line where parking lot abuts neighboring residentially used property. Exception: Where a screen fence or wall is provided, the required setback may be reduced to two feet.

5. Parking Lot Screening.

A fence, wall, berm or shrubbery four feet in height and of a character necessary for adequate screening of a parking lot from adjacent residentially used property shall be provided. Where the residentially used property is across the right-of-way from a parking area, screening right-of-way is an arterial street.

Berms or other landscaping techniques may be used for all or part of the screening requirement and may be incorporated into a required set-back area. Berms shall have a maximum grade of three feet horizontal to one foot vertical and shall be sodded or planted with other acceptable living ground cover.

6. Screening Dumpsters.

All outside dumpsters or other garbage receptacles on the site shall be screened by an opaque fence or wall.

7. Installation Requirements.

Trees shall be located no closer than three feet to any curb or hard-surfaced area, and all landscape materials required by this section shall be installed in accordance with accepted industry standards. Minimum planting sizes of hedges and ground cover evergreens to meet the requirements of this Ordinance are as follows:

- a. Hedges: If hedges are utilized for the required screening of the parking lot, plantings shall be a minimum of 18 inches above ground height and of a species that is normally capable or reaching a height of four feet within three years. Spacing shall be 18 to 36 inches apart, depending upon species, as the hedge must also be capable of providing a substantially full expanse of foliage within this three-year period.
- b. Ground cover evergreens: If ground cover evergreens are utilized in areas required to be maintained in living ground cover, plantings shall cover a minimum area of 12 inches in diameter and spaced no more than four feet on center.

8. Maintenance.

The use of in-ground sprinkler systems is encouraged, and at a minimum, water services shall be conveniently located to provide a permanent and easily accessible means of watering. Property owners shall be ultimately responsible for the proper maintenance of all required landscape materials and any dead or substantially damaged landscape materials shall be replaced.

9. Right-of-way Landscaping.

The unpaved portion of a dedicated public right-of-way abutting any development shall be landscaped with grass, or other living ground cover approved by the City. Nonliving ground cover, including, but not limited to, rock, stone, brick, concrete, blacktop, or other like materials shall not be used as landscape material except as provided herein.

The Administrative Official or Superintendent of Parks & Recreation may authorize the use of nonliving ground cover for landscaping a public right-of-way when it is determined that a location will not allow for adequate maintenance of sod or other living ground cover. This exception shall not include the use of loose rock or blacktop as landscaping material.

10. Parking Lot Lighting.

In order to minimize the negative impact of parking lot lighting on adjacent properties, the City requires the use of "shoe box" style lighting fixtures adjacent to any residential districts.

11. Enforcement.

The Administrative Official shall be responsible for the enforcement of the regulations set forth within this section.

**Sec. 17.318. Maintenance of Landscaping.**

In all districts, trees that have foliage hanging over sidewalks or street right-of-way shall be trimmed to clear such sidewalk or street right-of-way by eight (8) feet, and no shrubbery, hedges, or coniferous trees shall be planted, or objects be permitted in the street right-of-way, and if such plantings or objects are within the street right-of-way, the City of Madison shall not be held liable for removal or damage when such street right-of-way shall be used for lawful street right-of-way purposes.

**Sec. 17.319. Wind Energy Conversion Systems and Vertical axis wind turbines.****17.319.01. Purpose.**

The purpose of this ordinance is to insure that the placement, construction and modification of a Wind Energy Conversion System (WECS) facility is consistent with the City's land use policies, minimize the impact of WECS facilities, to establish a fair and efficient process for review and approval of applications, to assure a comprehensive review of environmental impacts of such facilities, and to protect the health, safety and welfare of the City's citizens.

**17.319.02. Federal and State Requirements.**

All WECS facilities shall meet or exceed standards and regulations of the Federal Aviation Administration and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WECS facilities.

**17.319.03. Requirements for Small Wind Energy Conversion Systems (SWECS) and Vertical axis wind turbines (VAWT)**

1. **General.** Small Wind energy conversion systems (SWECS) and Vertical axis wind turbines (VAWT) shall be allowed as accessory structures as conditional uses in certain zoning districts. In addition to the standards set forth in Section 17.24.02 regarding all conditional use permits, all SWECS and VAWTs shall also meet all requirements of Section 17.319 herein.
2. **Required Setbacks.** The minimum setback distance between each SWECS and all surrounding property lines, overhead utility or transmission lines, electrical substations, public roads and structures intended for human occupation shall be equal to no less than one point one (1.1) times the system height.

The minimum setback distance between each VAWT and all surrounding property lines, overhead utility or transmission lines, electrical substations, public roads and structures intended for human occupation shall be one (1) times the height of the vertical axis wind turbine as measured from the ground or rooftop if mounted on a rooftop.

**Exception:** The Board of Adjustment may allow setback/separation distances to be less than the established distances identified above, if the affected parties agree to a lesser setback/separation distance. If approved, such agreement is to be recorded and filed with the Register of Deeds.

3. **Tower Height.** In no event shall the height of a SWECS exceed ninety (90) feet as measured from the ground to the rotor hub. Further, there shall be no less than thirty (30) feet between the lowest arc of the rotors of a wind energy conversion system and the ground, any portion of a structure.

In no event shall the height of a VAWT exceed sixty (60) feet as measured from the ground to the top of the unit. Further, there shall be no less than thirty (30) feet between the VAWT and the ground.

4. **Rotor size/operation.** The maximum size of the rotors of a SWECS or VAWT shall be reviewed upon application for a conditional use. In determining the appropriate size for the rotors, the city shall consider such factors as noise, proximity to surrounding residences, safety and aesthetic issues. All SWECSs and VAWTs shall be equipped with appropriate braking devices or similar protective devices to slow down or stop the rotors if the wind exceeds the capacity of the system.
5. **Noise.** No SWECS or VAWT shall produce more than 60 decibels of sound measured at the closest point on the closest property line from the base of the system. Information from the manufacturer of the wind energy conversion system shall be submitted at the time of the submittal of the conditional use, ensuring that this requirement can be met once the system is operational. The owner may be required to submit independent noise studies to verify that the noise standard is met during actual operations. The level, however, may be exceeded during short-term events such as wind storms.
6. **Tower design.** The tower and turbine shall be a neutral color and shall have a non-reflective finish. In reviewing the conditional use for a SWECS or VAWT, the city shall consider the design and color of the tower to ensure that no significant adverse impacts are occurring to neighboring property owners, including, but not limited to, infringement into natural and urban viewsheds, historic property, major community entryways, parks, schools, churches, playgrounds, or similar public and recreational uses.
7. **Lighting.** A SWECS or VAWT shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Dual mode lighting shall be requested from the FAA. Flashing beacon lighting, unless required by FAA, shall not be utilized. These prohibitions do not apply to necessary ground safety lighting.
8. **Signs.** All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a SWECS or VAWT visible from any public road shall be prohibited. Size of the sign shall be consistent with Section 17.34.
9. **Tower Access.** Appropriate safety measures must be undertaken to discourage unauthorized climbing of a SWECS or VAWT tower. Appropriate measures shall include either:
  - a. All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
  - b. The construction of a six (6)-foot tall chain link fence, with approved fencing materials to be approved by the Board of Adjustment, with locking gate around the tower; and/or

- c. The tower shall be constructed so that the lowest climbing access shall be at least twelve (12) feet above the ground; or
- d. A locked anti-climb device shall be installed on the tower.

**10. Construction Standards.** Any wind energy conversion system shall be constructed in accordance with all applicable life, safety, electrical, building and fire codes including but not limited to the following:

- a. An applicant for a building permit for a SWECS shall submit pre-construction plans and specifications stamped by a registered engineer and may also be required by the Administrative Official to submit a post-construction inspection stamped by a registered engineer. An applicant for a building permit for a VAWT shall submit pre-construction plans and specifications which may be required by Administrative Official to be stamped by a registered engineer and may also be required by the Administrative Official to submit a post-construction inspection stamped by a registered engineer. Post-construction inspections stamped by a registered engineer shall be provided consistent with the guidelines provided for in South Dakota Codified Law 36-18A-46.
- b. **Lightning Protection.** Any SWECS or VAWT shall have appropriate lightning protection to sufficiently protect all connected and adjacent equipment and structures from damage. The lightning protection system shall effectively discharge lightning energy from the structure to the ground through the application of shielding, lightning arresters and deep earth grounding.

**11. Warning information.** Information related to the maximum power output, nominal voltage and maximum current, and emergency shut-down procedures for the SWECS or VAWT shall be posted near the base of the tower in a visible location.

**12. Commercial sale of power prohibited.** Any SWECS or VAWT shall not be used for generating power for sale commercially to those other than the owner of the SWECS or VAWT. Any interconnection to City electrical system and related details required to be addressed thereby shall be approved by the City Commission separately from the requirements in this ordinance.

**13. Additional regulation standards.** Any SWECS or VAWT shall be constructed and operated in accordance with all local, state, and federal regulations including regulations issued by the Public Utilities Commission and the Federal Aviation Administration.

**14. Electromagnetic interference.** No SWECS or VAWT shall produce electromagnetic interference so as to disrupt transmissions such as those from radio, television or microwave towers. At the time of application for the conditional use, the applicant must submit information from the manufacturer indicating that, once operational, the SWECS or VAWT will not adversely affect the transmissions. If necessary, generators and alternators shall be filtered, shielded, or both so as to prevent the disruption of telecommunications signals.

**15. Maintenance.** Any SWECS or VAWT shall be maintained in accordance with specifications established by the manufacturer of the SWECS or VAWT. On or before January 1 of each year the person operating the SWECS or VAWT shall submit a log of maintenance performed on the SWECS or VAWT for the preceding year. Failure to submit this log may result in the revocation of the conditional use permit by the Board of Adjustment to operate a SWECS or VAWT.

**16. Abandonment/removal.**

- a. Any wind energy conversion system which has not been used for a period of six (6) months or more shall be declared abandoned. The City may issue a Notice of Abandonment to the owner of a SWECS that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. Upon determination of abandonment of the system, the city shall revoke the conditional use and the system shall be removed at the expense of the property owner. The city shall determine that a wind energy conversion system has not been used if any of the following criteria apply:
  - i. The wind energy conversion system has not been operating for a substantial period of time and the owner of the system is unable to provide documentation demonstrating that the system has produced a minimum of twenty-five (25) percent of the expected typical energy output as stated in the system specifications over the past six (6) months. For the purposes of this paragraph, the expected typical energy output is defined as the number of kilo-Watt-hours (kWh) of energy that the system is reasonably expected to produce in a given time period based on the typical wind attributes present at the installation location and assuming that the system is fully operational during the given time period; or
  - ii. The wind energy conversion system has fallen into obvious disrepair as determined by the Board of Adjustment or has been condemned by the City of Madison; or
  - iii. The conditional use permit is revoked consistent with the provisions of 17.319.03.15; or
  - iv. The wind energy conversion system has become violative of some other local, state or federal law and the owner of the system has not taken appropriate actions to remedy the problem.
- b. If the SWECS is determined to be abandoned, and the owner has not responded to the notice of abandonment as prescribed above, the SWECS shall be removed at the Owner's sole expense within three (3) months of receipt of Notice of Abandonment. If the owner fails to remove the system, the City may pursue legal action to have the SWECS removed at the owner's expense.
- c. If deemed appropriate, the city may stipulate through the conditional use that the wind energy conversion system shall be removed at the owner's expense, upon the rezoning of the subject property to a zoning district classification in which wind energy conversion systems are not allowed as either a permitted use or conditional use.

**17.319.04. SWECS or VAWT Application Information**

1. In addition to the Building Permit requirements in Sections 17.20.04 and 17.24.01, the building permit application shall be accompanied by the following:
  - a. A plot plan which includes the following:
    - i. Property lines and physical dimensions of the property;

- ii. Location, dimensions, and types of existing major structures on the applicant's property and adjacent property;
  - iii. Location of the proposed SWECS or VAWT;
  - iv. The right-of-way of any public road that is contiguous with the property;
  - v. Any overhead utility lines.
  - vi. For any undeveloped or unplatted lands - a Sketch Plan approved by the Planning Commission in accordance with the Subdivision Regulations for the entire parcel on which the system is proposed to be located showing orientation and location of the system as it relates to location future development.
- b. SWECS or VAWT specifications, including manufacturer and model, rotor diameter, tower height, and tower type (monopole, lattice, guyed);
  - c. Tower foundation blueprints or drawings;
  - d. Tower blueprint or drawing;
  - e. Manufacturer warranty/maintenance information. Upon application for a conditional use for a SWECS or VAWT, the applicant shall submit a manufacturer's statement documenting that the SWECS or VAWT system has been successfully and safely operated in atmospheric conditions that are similar to conditions in Madison. Further, the applicant shall provide a copy of the manufacturer's warranty indicating that the SWECS or VAWT system is warranted against any SWECS or VAWT system failures reasonably expected during severe weather conditions. Further, the applicant shall submit SWECS or VAWT system specifications including maximum power output and a maintenance schedule for the SWECS or VAWT system; and
  - f. Proof of notification to the utility in the service territory in which the SWECS or VAWT is to be erected, consistent with the provisions of 17.319.03.13 herein.
2. Expiration. A conditional use permit issued pursuant to this ordinance shall expire if:
- a. The SWECS or VAWT is not installed and functioning within twelve (12) months from the date the conditional use permit is issued; or
  - b. The SWECS or VAWT is determined to be abandoned consistent with the provisions of 17.319.03.16 herein.

**Sec. 17.319.05. Requirements for Large Wind Energy Conversion Systems.**

Large wind energy systems shall be and are prohibited within the City limits of the City of Madison and any area of extra territorial jurisdiction the City may have.  
(Ord. No. 1491, 5-3-10)

## ARTICLE V DEFINITIONS

### Section 17.40. General Terms.

For the purpose of this ordinance, certain terms and words are defined.

**The present tense** includes the future tense.

**The singular number** includes the plural.

**The plural number** includes the singular.

The word "**lot**" includes the words "plot" or "parcel".

The word "**shall**" is mandatory and not discretionary; the word "**may**" is permissive.

The words "**used**" or "**occupied**" include the words intended, designed, or arranged to be used or occupied.

Any word not herein defined shall be as defined in any recognized Standard English dictionary.

### Sec. 17.40.01. Definitions.

For the purpose of this Ordinance certain words and terms used herein shall be defined and interpreted as follows:

All words used in the present tense include the future tense. All words in the plural number include the singular number, and all the words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "shall" is mandatory and not directory. The word "used" shall be deemed also to include "designed, intended or arranged to be used." (*see above*)

**Accessory Use or Structure.** As applied to use or structure, means customarily subordinate or incidental to, and on the premises of such use or structure.

**Adult Bookstores.** An establishment having, as a substantial portion of its stock in trade, books, magazines, films or videotapes for sale or viewing on the premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished by their emphasis on matter depicting, describing or relating to specified Sexual Activities or Specified Anatomical Areas as such terms are defined in this section, or an establishment with a segment or section devoted to the sale or display of such material. Adult bookstores may alternatively or in conjunction with the above stock in trade sell undergarments and other clothing designed for the display of Specified Anatomical Areas or for the enhancement of Specified Sexual Activities. Further, an adult bookstore may alternatively or in conjunction with the above stock in trade sell prosthetic devices, dolls, candles, vibrators and other objects for sexual gratification which take the form of Specified Anatomical Areas and for the purpose of enhancing Specified Sexual Activities.

**Adult Entertainment Facility.** Means an establishment offering to its patrons, as entertainment, any exhibition or display or any theatrical or other live performances which include topless or go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any persons singing, reading, posing, modeling, or serving food or beverages, where the exhibition, performance, display or dance is intended to sexually arouse the entertainer or the patrons, or where the attire of persons involved is such as to expose specified anatomical areas, as defined in this section.

**Adult Motion Picture Theater.** An enclosed building, regardless of its seating capacity which is used to present for public view on the premises, films, movies, previews, trailers or advertisements which are distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

**Adult Photo Studio.** An establishment which, on payment of a fee, provides photographic equipment and/or models for the purpose of photographing “specified anatomical areas”, as herein defined.

**Adult Use.** The term “adult use” shall include adult entertainment facility, adult bookstores, adult motion picture theaters, and adult photo studios as defined in this section.

**Airport.** A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

**Alley.** A minor way, dedicated to public use, which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

**Animal Unit.** One animal unit is equivalent to one (1) beef cow, steer, feeder or fat beef animal, 0.5 horse; 0.5 dairy cow; 1.5 swine; 6.5 sheep; 33 hens, cockerels, capons, broilers, or ducks; and 10 geese or turkeys.

**Auto Wrecking.** The collecting, burning out, dismantling or wrecking of used motor vehicles, wheeled or track laying equipment, or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles, wheeled or track-laying equipment, or trailers or their parts. The dismantling and rebuilding other than custom repair, of more than one motor vehicle, piece of wheeled or track laying equipment, or trailer at a time even though not for profit or a principal use of a parcel of land shall be defined as auto wrecking. The storage of a partially dismantled motor vehicle, piece of wheeled or track laying equipment or trailer shall be considered auto wrecking.

**Bar/lounge.** An establishment that is licensed to sell alcoholic beverages by the drink.

**Basement.** A Basement has more than one-half (1/2) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes.

**Bed and Breakfast Establishment.** A private single-family residence, which is used to provide, limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimal impact on surrounding residential properties and should comply with the following conditions:

- (a) B&Bs shall be limited to residential structures with an overall minimum of one thousand eight hundred (1,800) square feet of floor area. Preference will be given to structures with historic or other unique qualities.
- (b) They shall be in compliance with applicable state laws including registration with the South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
- (c) Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than one (1) square foot in area.
- (d) Such uses shall be an incidental use within an owner-occupied principal dwelling structure provided that not more than four (4) bedrooms in such dwelling structure shall be used for such purpose.
- (e) Off-street parking requirements shall be one space per guest room and shall be in addition to parking requirements for the principal use. Off-site parking may be acceptable if permitted parking facilities are within five hundred (500) feet. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially-used property.
- (f) The length of stay shall not exceed fourteen (14) days during any one hundred twenty (120) day consecutive period.
- (g) Meals shall be limited to breakfast, which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.
- (h) The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories, and bathing facilities, and kitchen shall be submitted with application.

**Billboard.** Any structure or portion thereof, situated on private premises, on which lettered, figured or pictorial matter is displayed for advertising purposes, except the name and occupation of the user of the premises, the nature of the business conducted on the premises or the products primarily sold or manufactured on the premises and having an area of one hundred (100) square feet or more. Any signboard carrying a message excepted in this definition which also carries extraneous advertising of one hundred (100) square feet or more shall be considered a billboard. This definition shall not include any board sign or surface used to display any official notices issued by a court or public duty, or bulletin boards used to display announcement of meetings to be held on the premises on which such bulletin boards are located, nor shall it include a real estate sign advertising for sale or rent the property upon which it stands when such sign does not exceed one hundred (100) square feet.

**Block.** A piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, parks, or a combination thereof. There may be more than one numbered block as shown on a plat, falling within a single block as herein defined.

**Board.** The Board of Adjustment of the City of Madison, South Dakota.

**Boarding House.** A building other than a motel, hotel or restaurant, where lodging and meals are provided for three (3) or more persons, but not exceeding ten (10) persons, and not open to public or transients.

**Buildable Area.** That portion of the lot that can be occupied by the principal use, thus excluding the front, rear and side yards.

**Building.** The word "building" includes the word "structure" designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings. Any structure having a roof or partial roof supported by columns, posts or walls for the enclosure of persons, animals, equipment or chattels of any kind. A residential building within the meaning of this Ordinance shall include a building enclosed by a continuous wall, regardless of the existence of platted lot lines through the area occupied by such building. A commercial or industrial structure may within a meaning of this Ordinance consist of separate buildings where party walls or ownership lines exist in such a manner as to indicate the intent that they be separate buildings. A tent shall be defined as a building for the purpose of this Ordinance.

**Building Height.** The distance measured from the mean elevation of the grade at the front face of the building to the highest point on the roof or parapet of said building.

**Building Line.** Is a line on the lot running parallel to the required horizontal distance from the nearest property line.

**Building Principal.** A building in which is conducted the primary principal use of the site on which it is situated. In any residential district any dwelling shall be deemed to be the principal building of the site on which it is located.

**Campground.** Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters. Campgrounds for tent trailers and recreational vehicles shall be sited with consideration for access to the property. The campground shall be designed to minimize the impact from adjacent major thoroughfares.

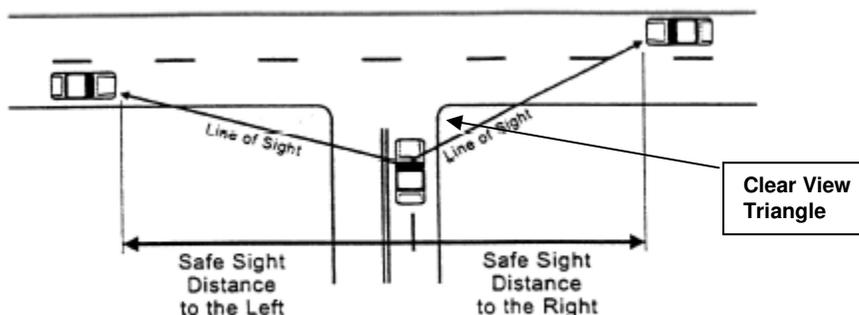
**Car Wash.** A facility used to clean the exterior, and sometimes the interior, of automobiles.

**Carports.** A structure used to house motor vehicles, which has a minimum of two sides open and not less than one third of its perimeter open,

**Church.** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

**Clinic, Medical.** A building or portion of a building containing the offices and associated facilities of one or more practitioners providing medical, dental, psychiatric, chiropractic, physical therapy or similar services for outpatients only, with or without shared or common spaces and equipment. A common area pharmacy or drug dispensary available to persons other than patients being treated therein or making charges separate from bill for professional services of said practitioners shall not be considered as a medical clinic use.

**Clear View Triangle.** A triangular-shaped portion of land established at street intersections and ingress/egress points in which there are restrictions on things erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection (see illustration below).



**Club.** Club shall include clubhouse and shall mean a voluntary association of persons organized for cultural, recreational, fraternal, civic, charitable for similar purposes, but shall not include an organization or premises the chief activity of which is a service or activity customarily carried on as business even though it may be chartered and named for purposes herein defining a club.

**Commercial Storage, Mini-Storage Facilities.** Individual locker storage facilities (frequently with some accessory outdoor vehicle/boat storage) primarily for the benefit of residential or small business users in which are kept household items, business records, vehicles, recreational equipment, etc.

**Commission.** The Board of City Commissioners of the City of Madison, South Dakota.

**Comprehensive Plan.** The adopted long-range plan intended to guide the growth and development of The City of Madison.

**Conditional Use.** A use that would not be appropriate generally or without restriction throughout the zoning district by which if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted by the City Commission when specific provision is made in this ordinance. Conditional uses are subject to evaluation and approval by the City Commission and are administrative in nature.

**Condominium.** The ownership of single units in a multi-unit residential structure with common elements. (With the property subject to the condominium regime established pursuant to SDCL 4315A)

**Construction.** Any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

**Contractor Shops and Storage Yards.** Those facilities to include structures and land areas where the outdoor storage of equipment and supplies used for various types of off-site construction are stored. Examples of equipment and supplies include but are not limited to the following – road construction, building construction, gravel operations, and general contracting services.

**Convenience Store.** Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same, at which a customer typically purchases only a few items during a short visit.

**Country Club.** For the purpose of this Ordinance, country clubs shall include golf courses, par three (3) golf course, swimming pools, tennis clubs and neighborhood clubhouses any and each of which shall be located on a site of not less than one acre and open only to membership subscribing for the use of all facilities for a term of not less than one year and members nonpaying guests. Sleeping facilities other than quarters for one caretaker or manager and his family shall be prohibited. Clubs operated as restaurants, cocktail lounges, card/ rooms, beer taverns, bowling alleys, pool and billiard parlors and similar activities normally carried on as a business shall be excluded from the definition of a country club.

Nothing herein shall be construed to limit the method of operation of such facilities enumerated in this definition when owned or operated by a governmental agency.

**Day Care Center.** Any operation which provides child care services. To be considered a Day Care Center under these regulations, such operation must be licensed by the State of South Dakota.

**Day Care Center, Commercial.** A day care center which is operated in a structure which is not a dwelling unit. To be considered a Day Care Center under these regulations, such operation must be licensed by the State of South Dakota.

**Density.** The number of families, individuals, dwelling units, or housing structures per unit of land.

**Development.** The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.

**Drive-In.** May be used as a noun or adjective and shall refer to a business which [is] designed to serve patrons while they are reposed in vehicles or by means of service windows with the intent that products be consumed in automobiles. This shall not be construed to include places for making deposits from automobiles such as drive-in bank windows, post office drop boxes or laundry or cleaning drop boxes.

**Downtown Parking Zone.** The lots with a front and/or side yards adjacent to the streets identified as the Downtown Parking Zone as designated in Article IV Section 11-187 of the City Code.

**Dwelling.** A building or portion thereof designed or used exclusively for residential occupancy, including single family dwelling, two family dwellings, multi-family dwellings and group dwellings; provided however that the following are not dwellings:

- (a) Hotels, motels, tourist courts and cabins;
- (b) In a building that contains one or more dwelling units or lodging rooms in addition to one or more nonresidential uses, the portion of such building that is devoted to such nonresidential uses, except when accessory to the residential uses;
- (c) Used for the institutional care of people such as hospitals, rest homes, orphanages, and homes for the aged.

**Dwelling, Attached (Row).** A multi-family dwelling in which each dwelling unit has a separate entrance and is either:

- (a) joined to one other dwelling unit at one side by one party wall or,
- (b) joined to two (2) other dwelling units by one party wall on each side.

**Dwelling, Detached.** A dwelling that is completely surrounded by open space on the same lot.

**Dwelling, Farm.** Any dwelling located on a farming operation, which is used or intended for use as a residence by the farm's owner, relative of the owner, or a person employed on the premises.

**Dwelling, Multi-Family.** A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of household units provided.

**Dwelling, Single Family.** A detached residential dwelling building, other than a manufactured home but to include modular homes, containing one (1) household unit.

**Dwelling, Two Family.** A building containing two (2) dwelling units only.

**Dwelling Unit.** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities

**Dwelling, Group.** A structure other than hotel or motel inhabited by more or less permanent occupants in excess of four (4), living independently in quarters other than dwelling units.

**Electronic Message Sign.** A sign whose message may be changed at intervals by electronic process or remote control and whose only movement is the periodic changing of information having a constant light level.

**Engineer.** Means any engineer licensed by the State of South Dakota.

**Family.** One or more individuals related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than six (6) adults who are unrelated by blood or law, in addition to persons actually related by blood or law the following persons shall be considered related by blood or law for the purpose of this title: (1) A person residing with the family for the purpose of adoption; (2) Not more than six persons under eighteen years of age, residing in a foster home licensed or approved by a governmental agency; (3) Not more than four persons nineteen years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency; and (4) Any person who is living with the family at the direction of a court.

**Farm.** A bonafide business for the production of agricultural products and the incidental use of horses, dogs or other animals and other similar operations; but specifically excluding greenhouses, horticultural nurseries, and kennels and other similar commercial operations.

**Feed Lots.** A feedlot is a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of forty-five (45) days or more during any twelve (12) month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility. A feeding operation involving more than two (2) animal units in either a confined area where manure may concentrate or in a situation where the concentration of animals is such that vegetative cover cannot be maintained. One animal unit is equivalent to one beef cow, steer, feeder or fat beef animal; one horse; 0.7 dairy cow; 1.7 swine; 6.7 sheep; 33 hens, cockerels, capons, broilers or ducks; and 10 geese or turkeys. (Ord. No. 1223, 7-8-96)

**Fence.** A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar material and is used as a barrier of some sort.

**Filling Station.** Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, but where the following activities are not carried out as a normal part of doing business:

- (a) Major mechanical work, involving removal of the head or crankcase.
- (b) Auto bodywork, including straightening of auto body parts.
- (c) Painting or welding of any automobile parts.
- (d) Storage of automobiles not in operating condition.
- (e) Any other automobile work which involves noise, glare, fumes, smoke, or other characteristics not normal found at places which sell gasoline at retail.

**Flammable Liquids.** Any liquid which gives off flammable vapors, as determined by the flash point from an open-cup tester as used for test of burning oils, at or below a temperature of eighty (80) degrees Fahrenheit, is flammable.

**Flashing Sign.** Any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature or similar information, shall not be considered a flashing sign.

**Floor Area.** The floor area of a building shall include all areas having headroom of seven (7) feet or more, including basement areas where they are used as a dwelling unit for sleeping accommodations, or other family eating or living purposes, but not including basement floor areas used for utility and storage purposes. Floor areas for business and industrial building shall include all usable floor space above grade and that portion of basements. Measurements shall be made at the outside of outside walls. An area may be surfaced with natural earth and still be considered a floor.

**Fair Market Value.** A price at which buyers and sellers with a reasonable knowledge of pertinent facts and not acting under any compulsion are willing to do business.

**Garages, Private.** An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, and boats, but not commercial vehicles.

**Garage, Public.** A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term repairing shall not include an automobile body repair shop nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.

**Garage, Storage.** Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

**Golf Course.** Golf course are used herein shall mean standard sized layouts of at least nine (9) holes and shall not include miniature golf courses, par three (3) golf courses, pitch and putt courses or driving ranges.

**Grade.** The main elevation of the ground measured along the wall of the building, or a lot line, or the top of a street curb or official grade of a street curb not yet constructed, or an official grade of an alley surface, as appropriate to the context in which the term is used. The finished grade of premises improved by a building or structure is the average natural elevation or slope of the surface of the ground within fifty (50) feet of the building or structure.

**Greenhouse.** A structure, which may consist of glass, plastic or other opaque surfaces, in which temperature and humidity can be controlled for the cultivation or protection of plants.

**Gross Parking Lot Area.** That portion of a site or contiguous sites, regardless of ownership, consisting of connected areas intended for use by vehicles including parking stalls, drives and alleys, and maneuvering areas.

**Ground Coverage.** The area of a parcel occupied by all buildings expressed as a percentage of the gross area of the parcel.

**Ground Sign.** A free-standing sign identifying the name or type of business, including whatever structure is needed to support such sign.

**Group Home.** A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

**Home Occupation.** A business, profession, occupation, or trade conducted for profit and located entirely within a dwelling, which use is accessory, incidental, and secondary to the use of the dwelling for residential purposes and does not change the essential residential character or appearance of such dwelling provided that:

No person other than members of the family residing on the premises shall be engaged in such occupation.

The use of the dwelling unit for the home occupation shall be clearly incidental and subordinated to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square-foot in area, non-illuminated, and mounted flat against the wall of the principal building.

No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street.

- (a) There shall be no external evidence of the occupation with the exception of one unlighted nameplate of not more than one square foot in area attached flat against the building. Advertising displays and advertising devices displayed through a window of the building will not be permitted.
- (b) There shall be no emission of smoke, dust, odor, fumes, glare, noise, vibration, electrical or electronic disturbance at the zoning lot line.
- (c) The activity shall employ only members of the immediate family of the resident of the dwelling.
- (d) There shall not be a stock of goods on the premises which shall be of a flammable nature.
- (e) There shall be no signs, radio, television, newspaper, handbill or similar types of advertising linking the address of the premises with the home occupation.

- (f) Said home occupations shall not involve continual visits by the general public except that music lessons may be given to one pupil at a time; dance and art lessons may be given to four (4) pupils at a time; a seamstress/tailor may have two (2) customers at a time; and a professional person may have one client or patient at a time. A beauty shop may have two (2) customers at a time; and a professional person may have one client or patient at a time. A beauty salon may have two (2) customers at a time.
- (g) The above listed characteristics of a home occupation shall not be construed to restrict the sale of garden produce grown on the premises, provided this exception shall not extend to allow the operation of a commercial greenhouse or nursery, or the existence of stands or booths for the display of products grown on the premises.
- (h) Said occupation may include the caring for not more than twelve (12) children at one time for hire.
- (i) Room or board for hire, but not for more than two (2) persons.
- (j) Should violations or complaints be filed with the Administrative Official, a new permit may be required provided said home occupation/conditional use permit was issued not less than one (1) year prior to the required re-application.

**Hotel or Motel.** A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are four (4) or more guest rooms, and which is open to the public and transients.

**Household Unit.** One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

**Illuminated Sign.** Any sign that is lighted by an exterior or interior artificial light source.

**Joint Identification Sign.** A sign which serves as common or collective identification for a group of persons or businesses operating on the same lot (e.g. shopping center, office complex, etc.) Such sign may name the persons or businesses.

**Junk or Salvage Yard.** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks in operable condition, boats or trailers in operable condition, salvaged machinery in operable condition, and used furniture and household equipment in useable condition and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

**Kennel.** Any premise or portion thereon where more than three (3) adult dogs, cats, or other household pets are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

**Large Wind Energy Conversion System or LWECS.** All WES facilities excluding Small Wind Energy Conversion Systems.

**Light Manufacturing.** Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

**Lineal Frontage.** That street frontage designated by the mailing address.

**Loading Space, Off-Street.** Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

**Lot.** A parcel or tract of land having specific boundaries and which has been recorded in the Register of Deeds office. A lot shall include only one (1) principal building together with its accessory buildings; open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.

**Lot Frontage.** The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. Minimum frontage for lots located on cul-de-sacs shall be determined as the average of the widest and narrowest width of the lot.

**Lot Line.** A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

**Lot Measurements.**

**Depth:** The average mean horizontal distance between the front and rear lot lines.

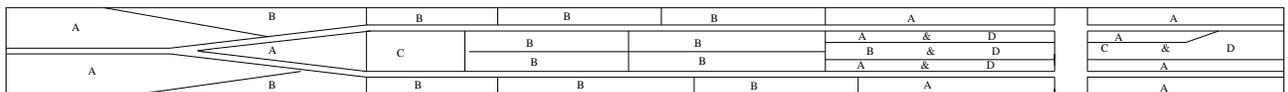
**Width:** The width of a lot at the front yard line.

**Area:** The lot area is the area of a horizontal plane in square feet or acres within the lot line.

**Lot Width.** The distance between side lot lines measured at the rear of the required front yard on a line parallel with a line tangent to the street right-of-way line.

**Lot of Record.** A lot which is part of a subdivision recorded in the office of the Lake County Register of Deeds, prior to the adoption of this ordinance

**Lot Types.** See Figure below:



**Corner Lot.** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

- A. **Interior Lot.** A lot other than a corner lot with only one frontage on a street.
- B. **Through Lot.** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- C. **Reversed Frontage Lot.** A lot on which the frontage is at right angles or approximately right angles (interior angle less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), and interior lot (B-D) or through lot (C-D).

**Manufactured Home.** See Section 17.312

**Manufactured Home Park.** See Section 17.313

**Marquee, Awning and Canopy Signs.** Any message or identification which is affixed to or part of a marquee, awning or canopy.

**Minor Repair; Automobile.** The replacement of minor assemblies or parts and tune-up of automobiles, or trucks of less than fifteen thousand (15,000) pounds gross license weight, but not including body and fender work, painting, engine overhaul or similar type of work.

**Modular Home.** See Section 17.312.1.

**Moved-in Building.** A building that previously existed on a lot of different location relocated for use as a residence, outbuilding, commercial, industrial or any building used in relation to these uses shall be recognized as a moved-in building.

**Non-Conforming Sign.** A sign which lawfully existed at the time of the adoption of this Section, which does not conform to the requirements thereof.

**Non-Conforming Building/Use.** Any building or land or use of land, lawfully occupied by a use at the time of passage of this ordinance or amendment which does not conform after the passage of this ordinance or amendment with the use regulation of the district in which it is situated.

**Non-Standard Use.** The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.

**Outdoor Advertising Business.** Provisions of outdoor displays or display space on a lease or rental basis only.

**Overlay District.** A set of zoning requirements that is described in the ordinance text, is mapped, and is imposed in addition to those of the underlying primary zone. Development within the overlay district must conform to the requirements of both the underlying primary zone and the overlay district or the more restrictive of the two.

**Parcel.** A single tract of land, located within a single block, which at the time of filing for a building permit, is designated by the owner or developer as a tract to be used, developed, or built upon as a unit, under single or unified ownership or control, and assigned to the particular use, building or structure, for which the building permit are issued and including such area of land as may be required by the provisions of this Ordinance for such use, building or structure.

**Parking Space, Off-Street.** An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, not less than ten (10) feet wide and twenty (20) feet long, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

**Par-Three (3) Golf Course.** A golf course other than a miniature golf course and other than a golf course defined herein, and having greens similar to a golf course and fairways of not less than fifty (50) yards in length. A par-three (3) golf course may not be lighted unless so specified as permitted in the text of this Ordinance.

**Permit.** A permit required by these regulations unless stated otherwise.

**Permitted Special Use.** A use allowed in a zoning district subject to the applicable restrictions of that zoning district and additionally subject to certain restrictions for that specific use.

**Permitted Use.** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

**Person.** In addition to an individual, includes the following terms: "firm", "association", "organization", "partnership", "trust", "company", or "corporation" joint venture, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

**Personal Services.** These establishments offer a wide range of personal services (laundry, hair care, etc.).

**Planning Commission.** The members appointed by the City Commission to serve in an advisory capacity on planning and zoning matters.

**Plat.** The maps, drawings, or charts on which a subdivider's plan of subdivision is legally recorded.

**Primary Zones.** A zoning classification which can stand alone as a classification of a parcel of property.

**Principal Permitted Use.** That use of a parcel which is among the uses allowed as a matter of right as the exclusive use of a lot under the zoning classification.

**Portable Sign.** A sign constructed to be moveable from one location to another or not permanently attached to the ground or to any permanent structure.

**Principal Use.** The primary use to which the premises are devoted.

**Projecting Sign.** A sign, other than a wall sign, which projects from and is supported by a building.

**Reader Board Sign.** A sign intended to display a message through the use of manually-changed letters, that is permanently attached to a ground sign or affixed to a wall. All other such signs shall be deemed as temporary signs.

**Real Estate Sign.** A sign advertising the sale, rental, or development of the premises upon which it stands, or directing attention to the opening or location of a new residential development.

**Recreational Vehicle.** A motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy. A recreational vehicle does not include manufactured homes.

**Resource Recovery/Solid Waste Transfer Station Facilities.** A facility used to separate, transfer, process, modify, convert or otherwise prepare solid waste so that component materials or substances may be beneficially used or reused as raw materials, including the following:

- (a) Buy-Back Center for Recyclables: A facility where recyclable material, such as, but not limited to, glass, plastics, paper, metal containers and corrugated cardboard can be purchased and temporarily stored prior to delivery to a processing facility or market.
- (b) Citizens' Drop-Off Facility: Provides for the disposal of recyclable materials not collected by waste haulers. In general, vehicles will be unloaded by hand at such a facility. The design will depend upon the waste materials anticipated but will typically include large portable containers or bins into which waste can be deposited.
- (c) Household Hazardous Waste Site: A site to collect or receive household quantities of hazardous waste materials from residential sources and arrange for transportation of these materials to permitted hazardous treatment, storage or disposal facilities.
- (d) Processing Facility: A building or enclosed space used for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment or to an end-user's specifications by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning and remanufacturing.
  1. Light Processing Facility occupies an area under forty-five thousand (45,000) square feet of gross collection, processing and storage area and has up to an average of two (2) outbound truck shipments per day. Light processing facilities are limited to baling, briquetting, crushing compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials. A light processing facility shall not shred, compact or bale ferrous metals other than food and beverage containers.

2. Heavy Processing Facility is any processing facility other than light processing facility and may shred, compact or bale ferrous materials other than food and beverage containers.
  - (e) Reverse Vending Machine. An automated mechanical device which accepts at least one (1) or more types of empty beverage containers, including but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip. A reverse vending machine may sort and process containers mechanically, provided the entire process is enclosed within the machine.
  - (f) Transfer Site. A location where an intermediate phase in the treatment of solid waste occurs. After the solid waste has been deposited in transfer vehicles, it shall be transported from the site.
  - (g) Yard Waste Composting Facility. A site used for the controlled microbial degradation of garden wastes, leaves, lawn cuttings and prunings generated at residential or commercial properties to yield a humus-like product.

**Retail Sales and Trade.** Establishments engaged in selling products, goods or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating and drinking establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services.

**Rooming House.** A dwelling containing one or more lodging rooms that accommodate one or more persons who are not members of the keeper's family; provided however, that the letting of rooms for hire, to the extent permitted by this Ordinance as a home occupation, shall not in itself cause a dwelling to be a rooming house. In a rooming house, lodging or meals are provided for compensation on a weekly or monthly basis. Rooming house includes boarding house.

**Roof Line.** In structures with a flat roof, the top line of the coping; in structures with pitched roofs, the intersection of the outside wall with the roof.

**Roof Sign.** A sign permanently affixed upon the roof of a building.

**Sale or Auction Yard/Barn.** A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one day during sale or auction.

**Service Station, Automobile.** Any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

**Setback.** The setback of a building is the minimum horizontal distance between the front line or street line and the nearest edge of any building or any projection thereof, except cornices and unenclosed porches, and entrances vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and not more than fifty (50) square feet in area, and which do not extend above the first story of the building.

**Sheet Siding.** Any siding material customarily installed as a sheet and composed of galvanized, painted or bonded metal, and customarily installed in a vertical manner but also capable of being installed horizontally.

Exclusion No. 1: For roofing applications only, excluded from the definition of sheet siding is a standing seam roofing material or system with unexposed fasteners, a minimum gauge thickness of 26, and with a minimum rib spacing of 16 inches. This exclusion does not apply to used materials or to non-earth tone colors in residential zoning district.

Exclusion No. 2: For siding applications in non-residential zoning districts only, excluded from the definition of sheet siding is a metal system –

- (a) Used in conjunction with substantial use of brick or other types of siding or other accessory material on each side of building or structure facing each front yard, and
  - (b) With unexposed fasteners, a minimum gauge thickness of 26, and with a minimum rib spacing of 16 inches.
  - (c) This exclusion does not apply to non-earth tone colors or to used materials.
- (Ord. No. 1519, 1-3-12)

**Shopping Center.** Retail buildings of greater than 100,000 square feet and designed for more than one tenant.

**Sign.** Any object, device or structure, or part thereof, situated outdoors or visible from outdoors, 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, design, symbols, fixtures, colors, illumination, or projected images. The structure supporting or intended to support a sign shall be considered part of that sign. This definition does not include:

- (a) Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- (b) National or State Flags or their emblem or and insignia, interior window displays or athletic scoreboards.
- (c) Legal notices, identification, information, or directional signs erected or required by governmental bodies.
- (d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving light.
- (e) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

**Sign Area.** The net geometric area enclosed by the display surface of the sign. Only one face of a multiple-faced sign shall be considered in determining the display surface area.

**Sign Height.** The vertical distance measured from the lot elevation to the highest point of said sign.

**Sign (Off-Premise).** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

**Sign (On-Premise).** A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

**Sign Setback.** The horizontal distance measured from a lot line and the nearest portion of a sign or its structure.

**Sleeping Quarters.** A room or an area contained within a dwelling unit utilized for the purpose of sleep.

**Small Wind Energy Conversion System or SWECS.** A WES facility with a maximum tower height of ninety (90) feet and includes power output of less than 150 kilowatts.

**Specified Anatomical Areas Means:**

Less than completely and opaquely covered human or animal genitals, pubic region, or pubic hair, buttocks; and female breasts below a point immediately above the top of the areola; and

Genitals of humans or animals in a discernible turgid state, even if completely opaquely covered.

**Specified Sexual Activities Means:**

Human or animal genitals in the state of sexual stimulation or arousal.

Acts or representations of acts of human or animal masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation.

Fondling or erotic touching of human or animal genitals, pubic region, buttock or female breast.

Excretory functions as part of or in connection with any activities set forth in an Adult Bookstore or "Adult Entertainment Facility".

**Stable.** A building for the shelter and feeding of domestic animals, especially horses and cattle.

**Stable, Commercial.** A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

**Street.** A right-of-way, dedicated to public use, which affords the principal means of access to abutting property. Also may be referred to as road or highway. The term street shall include and apply to any public way except alleys. Where a way or place exists by virtue of consent agreement or an established public right, then for the purposes of this Ordinance the way or place shall be considered to be sixty (60) feet in width falling half on each side of the centerline of the traveled way. Where the dimensions set out in a consent agreement exceed sixty (60) feet, then the larger dimension shall govern.

- A. Arterial Street. A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Madison.
- B. Collector Street. A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Madison.
- C. Local Street. Any street which is not an arterial street or collector street.

**Street Line.** The line between the public right-of-way and private property.

**Strip Malls.** Retail buildings of less than 100,000 square feet and designed for more than one tenant.

**Structure.** Anything constructed or erected with a fixed location on the ground or attached to or resting on something having a fixed location on or below the ground. Moreover the following shall always be considered structures: buildings, manufactured homes, walls, fences, swimming pools, signs, and billboards, ponds, and lagoons.

**Structural Alterations.** Any change in the structural members of a building, such as walls, columns, beams or girders. Vehicles duly licensed for operation upon public streets or highways shall not be considered structures.

**Structure, Temporary.** Anything constructed or erected, or placed, the use of which requires temporary location on the ground or attached to something having a temporary location on the ground.

**Subdivision.** The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

**Substantially Completed.** This term refers to the amount of work required to be completed in association with a building permit issued by the City. In order to be substantially complete, seventy-five (75) percent of the project for which a building permit has been issued is required to be finished.

**System Height --** The height above grade of the tallest point of the WES, including the rotor radius.

**Telecommunications Facilities.** Means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a Person seeks to locate or has installed upon or near a Tower or Antenna Support Structure. However, Telecommunications Facilities shall not include:

Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or

Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.

**Temporary Sign.** Any sign, banner, pennant, poster, or advertising display which is intended to be displayed for a limited period of time and is not permanently affixed to the ground or a structure. Signs other than temporary signs shall be considered permanent signs.

**Tower Height.** The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

**Trailer.** Means any of the following:

**Transitional Yard.** Area of vegetation that may be required within the required yard of lots or parcels where said lots or parcels abut one another. Every required transitional yard shall consist of a combination of grasses, shade trees, evergreen trees, shrubs, and appropriate screening devices such as walls, fences or berms. Areas not planted with shrubs trees or other appropriate screening devices shall be maintained with grass.

**Travel Trailer.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. The trailer shall be permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.

**Pick-up Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

**Motor-Home.** A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

**Camper Trailer.** A canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.

**Trademark Signs.** Any sign designating a design or emblem of a product or manufacturer.

**Turbine.** The parts of the WES including the blades, generator and tail.

**Twin Homes.** A two-family dwelling, which has a common wall and is platted into two separate lots. Each dwelling unit would have a minimum of 1,200 square feet.

**Use.** The purpose or purposes for which land or a building is designed, arranged, or intended, or to which said land or building is occupied, maintained or leased.

**Use, Accessory.** A use customarily incident to a principal permitted use or building and located on the same zoning lot with such principal use or building.

**Use, Specifically Excluded.** A use of land or a structure which is excluded from a zone by the operation of other regulations of the zone, and which is specifically enumerated as excluded for the purposes of clarity of intent and ease of reference.

**Utility.** Any entity engaged in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipal utility.

**Variance.** A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

**Vertical axis wind turbine or VWAT.** Have the main rotor shaft arranged vertically and shall be used only for the purpose of generating power for the property on which the vertical axis wind turbine is located. Vertical Axis wind turbines shall only be allowed to be mounted directly on building roofs.

**Wall Sign.** A sign affixed on a part of the exterior wall of a building and flush against it.

**Waste.** Any garbage, refuse, manure, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product materials as defined by the Atomic Energy act of 1954, as amended.

**Wholesale Merchandising/Trade.** Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**Wind Energy Conversion System or WECS** -- is an aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnections, batter banks and the like in such a configuration as necessary to convert the power of wind into mechanical or electrical energy. WECS are also known as wind chargers, windmills or wind turbines.

**Yard.** A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

**Yard, Front.** A yard extending between side lot lines across the front of a lot adjoining a public right-of-way.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern, and a second front yard of half the depth required generally for front yards in the districts shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the Administrative Official shall determine the front yard requirements, subject to the following limitations:

At least one (1) front yard shall be provided having the full depth required generally in the district; and

No other front yard on such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel.

**Yard, Rear.** A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

**Yard, Side.** A yard extending from the rear line or the required front yard to the rear lot line or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots and corner lots, side yards remaining after full and half-depth front yards have been established shall be considered side yards.

**Zoning District.** A section of the City for which regulations governing the use of land, the construction and use of buildings and the occupancy of premises are hereby made.

(Ord. No. 1491, 5-3-10; Ord. No. 1519, 1-3-12)