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MUNICIPAL CODE

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CHAPTER 29

DEVELOPMENT ORDINANCE

[Recreated 5/22/06]

29.01 INTRODUCTION

- 1) **Title.** This Ordinance shall be known as, referred to, or cited as, the “Town of Menasha Development Ordinance” and is hereinafter referred to as the “Ordinance.”
- 2) **Purpose.** The purpose of this Ordinance is to provide a process for Site Plan Review and Town B-4 & B-5 Conditional Use Permits for land uses and developments which are subject to a Building Permit and/or Conditional Use Permit.
- 3) **Intent.** The intent of this Ordinance is to promote the health, safety, morals, prosperity, and aesthetics of the Town and to help ensure that newly developed properties, expanded structures or redeveloped properties are compatible with adjacent development so that safety, traffic, overcrowding and environmental problems are minimized to the extent possible.
- 4) **Ordinance Application.** This Ordinance does not apply to one (1) and two (2) family residential units. This Ordinance does apply to the new construction or erection of any other building or structure, any addition to a building or structure, new or expansion of parking areas, and new or relocated signs. A Site Plan Review and Town B-4 & B-5 Conditional Use Permit which is subject to this Ordinance is a condition precedent to the issuance of a Building Permit.
- 5) **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, other than as stated in Section 29.01 8) of this Ordinance, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.
- 6) **Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements for the promotion of the health, safety, morals, prosperity and aesthetics of the Town. The provisions of this Ordinance shall be liberally construed in favor of the Town and shall not be construed a limitation or repeal of any other power possessed by the Town of Menasha.
- 7) **Severability.** If any section, portion, or provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is adjudged invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions

or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

- 8) **Repeal.** It is intended by this Ordinance to repeal the “Landscaping Regulations for the Town of Menasha” & “Subdivision Control Ordinance for the Town of Menasha”, as previously adopted, and create this Ordinance as titled in Section 29.01 1) of this Ordinance. All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.
- 9) **Jurisdiction.** Jurisdiction of these regulations shall include all lands and waters within the Town of Menasha.
- 10) **Effective Date.** This Ordinance shall be effective after adoption by the Town of Menasha Town Board of Supervisors and publication or posting as provided by law. Amendments hereto shall be made only after notice and public hearing.

29.02 DEFINITIONS

- 1) **Definitions.** The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Ordinance, except where the context clearly indicates a different meaning. When not inconsistent with the context, words used in the present tense include the future, and words in the singular number include the plural number. The word “shall” is always mandatory.
 - a) **Building setback line.** A line parallel to a lot line and at a distance from the lot line to comply with the Zoning Ordinance’s yard and setback requirements.
 - b) **Building sites.** A parcel of land occupied, or intended to be occupied by a structure as permitted under applicable Zoning Ordinance regulations.
 - c) **Certified survey map.** A map of a division of land prepared in accordance with Chapter 236 of the Wisconsin State Statutes and Chapter 6 of the Municipal Code.
 - d) **Comprehensive plan.** The development plan, also called a master plan, adopted by the Town Board of Supervisors pursuant to Section 66.1001(3) of the Wisconsin State Statutes, including proposals for future land use, transportation, urban development, and public facilities. Devices for the implementation of these plans, such as zoning, official map, land division, and building ordinances and capital improvements programs shall also be considered a part of the comprehensive plan.

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- e) Corner lot. A lot abutting on two (2) or more intersecting streets.
- f) County. The County of Winnebago, Wisconsin.
- g) Development. The act of building structures or installing improvements.
- h) Dwelling Unit. The building or group of rooms within a building, where one person or a group of persons resides as a family unit.
- i) Easement. A grant by a property owner for use of a parcel of land by the public or any person for any specific purpose or for purposes of access, constructing and maintaining utilities, including: sanitary sewers, water mains, electric lines, telephone lines, other transmission lines, storm sewer, storm drainage ways, gas lines, or other service utilities.
- j) Engineer. A professional engineer licensed by the State of Wisconsin.
- k) Impervious area or impervious surface. These terms mean horizontal surface which has been compacted or covered with a layer or material so that it is highly resistant to infiltration by rain water. It includes, but is not limited to, semi-impervious surfaces such as compacted clay, as well as streets, roofs, sidewalks, parking lots and other similar surfaces.
- l) Improvement. Any sanitary sewer, storm sewer, open channel, water main, roadway, parkway, public access, curb and gutter, sidewalk, pedestrian way, planting strip, or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.
- m) Lot. A designated parcel or area of land established by plat, subdivision, or as otherwise permitted by law.
- n) Lot area. The total square footage within the boundaries of a lot, excluding any public rights-of-way.
- o) Lot line. The peripheral boundaries of a parcel of land.
- p) Official map. A map adopted pursuant to Section 62.23 of the Wisconsin State Statutes for the precise designation of the right-of-way lines and site boundaries of streets, highways, parkways, parks, and playgrounds, both existing and proposed.
- q) Open space. A natural or manmade landscaped area not occupied by any structures, buildings, or impervious surfaces.
- r) Owner. Any person having proprietary interest in the land sought to be developed to commence and maintain proceedings to develop the land under this Ordinance.
- s) Parcel. A designated lot or area of land established by a land division or as otherwise permitted by law.
- t) Pedestrian way. A right-of-way, however designated, across or within a block, for use by pedestrian traffic.
- u) Plan Commission. The Town Plan Commission.
- v) Property line. The legal boundaries of a parcel of property that may or may not coincide with platted lot lines or street right-of-way.
- w) Setback. The required distance a structure must be located from a lot line, easement, right-of-way, adjacent building, or other feature as indicated in this ordinance.
- x) Street. A dedicated right-of-way affording primary access by pedestrians or vehicles to abutting property.
- y) Town. The Town of Menasha, Wisconsin.
- z) Town Board. The Town Board of Supervisors of the Town of Menasha, Wisconsin.
- aa) Town Clerk. The Clerk of the Town of Menasha, Wisconsin.

29.03 SITE PLAN REVIEW

- 1) **Review Authority.** The Site Plan Review Authority shall be the Community Development Director, which shall have the authority to approve or reject Site Plans or approve with modifications, based on feedback from the following departments:
 - a) Community Development;
 - b) Building Inspection;
 - c) Street Department;
 - d) Utility District;
 - e) Police Department; and
 - f) Fire Department.
- 2) **Application for Site Plan Review.** Applications for Site Plan Review may be obtained from and shall be filed with the Department of Community Development. The application shall be made on Town forms and shall be fully, accurately and legibly completed, and shall include eight (8) sets of mandatory submittals and such optional submittals as required by the Review Authority.

3) **Application Forms and Submittals.**

a) **Written Application.** Every applicant for a Site Plan Review shall complete an application form, with supplementary attachments, if necessary, containing the following information:

- 1) Name, address, and phone number of the owner and architect or engineer;
- 2) Date of the application;
- 3) Identification of the property in question by street address and by parcel number. If there is no street address, the applicant shall provide a description of the location of the property in relation to surrounding streets and properties;
- 4) Description of the nature of the proposed development or redevelopment, and the proposed land use(s), including accessory uses; and
- 5) Time schedules for the completion of phases in staged development.

b) **Conditional Uses.** Where the Site Plan Review is for a conditional use, the additional submittals required for a Conditional Use Permit application shall be included, in addition to the Development Plans and Reports required herein.

- 1) Requirements for a Conditional Use Permit are governed by Winnebago County, applications can be picked up at the Town of Menasha or Winnebago County.
- 2) Requirements for a Town B-4 or B-5 Conditional Use Permit, see Section 19.05 of this Ordinance.

c) **Development Plans and Reports.**

- 1) The following plans and reports shall be submitted for Site Plan Review:
 - (a) Plan of Operation;
 - (b) Building Plan;
 - (c) Site Plan;
 - (d) Landscape Plan;
 - (e) Utility Plan;
 - (f) Stormwater & Erosion Control Plan; and
 - (g) Digital Plans.
- 2) Two or more plans may be combined (i.e. site plans and landscape plans may be suitable for combination), but in no case shall the combined plan fail to show any of the items required for each individual plan.

d) **General Requirements.** All building plans, site plans, landscape plans, utility plans, stormwater

and erosion control plans, elevations, and sections shall be drawn to such a scale that all features required to be shown on the plans are readily discernable. Building floor plans, elevations, and sections may be drawn to an architect's scale. All other plans shall use an engineering scale. For site, landscaping, utility, and stormwater and erosion control plans, the scale used shall be the same for each plan. The following shall be shown on each plan, elevation, or section:

- 1) The name of the applicant;
- 2) The name and location of the development;
- 3) The title of the plan (i.e. "Site Plan", "Landscape Plan");
- 4) Scale and north arrow; and
- 5) The date of the original plan and the date(s) of any revisions.

e) **Optional Submittals.** Whenever it is determined by the Review Authority that the characteristics of the proposed development require additional information or documentation to permit a comprehensive review, such information or documentation shall be provided by the applicant after receiving a written request from the Review Authority. The following list of the optional submittals may include, but not limited to:

- 1) Traffic impact statement;
- 2) Environmental impact statement;
- 3) Photometric plot;
- 4) Description of unusual site characteristics;
- 5) Street perspectives;
- 6) Legal documentation establishing homeowners associations or other legal entities, responsible for control over required common areas and facilities; and
- 7) Historic significance.

f) **Fees.** The Site Plan Review fee as set forth in the Appendix B Fee Schedule, reference this code section, shall be paid at the time of application submittal. The application fee entitles the applicant to two (2) permitted reviews: one (1) initial review and one (1) resubmittal. All further resubmittals submitted after the two permitted reviews will be conducted upon payment of a resubmittal fee as set forth in the Appendix B Fee Schedule, reference this code section.

4) **Amendments.** Any change to an approved Site Plan shall require the submission of revised plans, fees as set forth in the Appendix B Fee Schedule, reference this code section, and approval by the Review Authority.

5) **Procedure.**

- a) **Preliminary Review.** The applicant shall consult with Community Development staff prior to submitting an application to discuss the application requirements and review process and to determine whether any optional submittals will be required.
- b) **Submittal Requirements.** The applicant shall submit the following to the Department of Community Development, which will forward copies to Town Departments for review:
 - 1) Application form;
 - 2) Fees;
 - 3) Eight (8) copies of all plans, elevations, and sections on 24" by 36", or greater, sheet of paper;
 - 4) Two (2) copies of all plans, elevations, and sections on 11" by 17" sheet of paper; and
 - 5) Digital copy of the plans, elevations, and sections in AutoCad (*.dwg) or compatible form by Electronic Mail or Compact Disc.
- c) **Development Review.** The Review Authority and Town Departments will review the development plans using the Development Standards of this Ordinance. The Departmental review shall be completed no later than ten (10) business days following the receipt of a complete application, excluding the day the application was received.
- d) **Review Authority Decision.** The Director of Community Development will review the application and shall either approve or deny the application, or approve with conditions based upon the Development Standards, Section 29.04 of this Ordinance, and the comments from Town Departments. The Department of Community Development shall submit to the owner and architect or engineer, in writing, of the department comments, recommendations, approvals or rejection within fifteen (15) business days of the receipt of a complete application.
- e) **Approval.** The Site Plan shall become effective upon issuance of a Certificate of Approval by the Review Authority.
- f) **Permits.** No building or construction permits shall be issued until the Review Authority has reviewed and approved the Site Plan. "Early Start Permits" may be issued in accordance with Section 13.26 (2) of the Town of Menasha Municipal Code.
- g) **Revocation.** The approval of any Site Plan required by this Section shall remain valid for one (1) year after the date of approval, after which time the Site Plan shall be deemed null and void if the development has not been established

or actual construction commenced. For the purpose of this Ordinance, "actual construction" shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property, or stockpiling of materials on the site shall not constitute actual construction. If an approved Site Plan expires for such reason, any subsequent development or use of the property shall require a new Site Plan Review application.

- h) **Appeals.** An applicant objecting to any decision of the Review Authority related to Site Plan Review may appeal the decision to the Plan Commission. Such appeals shall be filed, accompanied by the fee as set forth in the Appendix B Fee Schedule, reference this code section, within fifteen (15) days of the decision of the Review Authority. The Plan Commission shall hold a hearing of an appeal within forty-five (45) days of the filing of the appeal and shall make a recommendation to the Town Board. The Town Board shall then take final action on the appeal.
- i) **Violation.** Construction of other activities contrary to the approved Site Plan, or in the absence of an approved Site Plan, shall be a violation of this Section.
- j) **Penalty.** Any person, firm, or corporation who fails to comply with the provisions of this Section shall, upon conviction thereof, pay forfeiture as set forth in Appendix C Fines and Penalties, reference this code section, plus the cost of prosecution for each violation and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding thirty (30) days. Each violation and each day a violation exists or continues shall constitute a separate offence.

29.04 DEVELOPMENT STANDARDS

- 1) **Intent.** The following Development Standards are set to establish and define criteria for the review process set forth in Section 29.03, the following Development Standards for all uses requiring Site Plan Review are created.
- 2) **General Provisions.**
 - a) All development plans shall meet the requirements of the Winnebago County Town/County Zoning Ordinance.
 - b) The Development Standards provided herein are minimum standards and additional standards or conditions may be required for individual developments when requested by the Review Authority for special circumstances.
 - c) Should the Development Standards conflict with any other provision of the Ordinance, the most restrictive provision shall apply.
 - d) The Development Plans and Reports shall serve as the review documents which the Review Authority will use in the analysis of the application for Site Plan Review.
- 3) **Plan of Operation.** The Plan of Operation shall, in letter or report form, include the following, when applicable:
 - a) Proposed use of the land and building(s);
 - b) Total number of employees;
 - c) Hours of Operation;
 - d) Total occupancy of building (if restaurant, church or other assembly use);
 - e) Total number of units (if residential); and
 - f) Number, type, and size of vehicles stored outdoors (recreational and commercial).
- 4) **Building Plans.** Building Plans shall show and include the following:
 - a) Design and Architecture of Building. Elevations shall be provided and dimensioned for all proposed and existing structures.
 - b) Materials and Color. Wall, roof, and trim material and colors shall be submitted and indicated on the plans and should complement the surrounding area.
 - c) Massing and Orientation. Building size, scale, location, and orientation should reflect the physical scale of the surrounding buildings.
 - d) Building Plans. Floor plans, for each story, and sections shall be drawn to sufficient detail so that all room sizes, wall openings, building projections, and location of all exterior HVAC and utility services equipment can be identified.
- e) Fire Prevention Devices. Details on fire detection, fire alarm, and other safety devices, including fire suppression, sprinkler, standpipe, and restaurant hood suppression systems shall be provided for review and be approved by the Town Fire Department.
 - 1) For building sprinkler requirements, see Chapter 5 of the Municipal Code.
- f) Dumpster Enclosures. Elevations and material and colors of dumpster enclosures shall be indicated on the plans and should complement the building.
- g) Residential Units. Rooms used for residential purposes shall provide adequate living area, as required in the International Building Code and Chapter 12 of the Municipal Code.
- h) Accessibility. Buildings shall be in compliance with the Americans with Disability Act.
- i) Roof Mounted Equipment. All roof mounted equipment shall be located and/or screened in order to minimize its visibility from the abutting streets and surrounding properties.
- j) Multi-Family Buildings. Multi-Family buildings shall conform with the exterior building variation guidelines hereinafter set forth:
 - 1) Exterior building variation is required on multi-family buildings that contain eight (8) or more units. One-quarter (1/4) of units within the building shall differ from the other units by symmetrically changing the location, pattern, or form of at least two (2) of the following architectural elements:
 - (a) Balconies, porches or verandas;
 - (b) Window type and fenestration;
 - (c) Roof pitch or design;
 - (d) Exterior materials;
 - (e) Height;
 - (f) Other exterior building modifications approved by the Review Authority.
 - 2) Each building in a multi-family development that consists of two (2) or more buildings shall differ from each adjacent and facing building by using at least two (2) of the following criteria:
 - (a) Staggered setbacks of at least one-half (1/2) a building length between buildings;
 - (b) Shifted building orientation of at least forty-five (45) degrees between buildings;
 - (c) Façade width, height, and symmetry;

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- (d) Roof pitch or design; architectural masonry, architectural composite aluminum or steel panels, glass, or any combination of these materials at a minimum on the lower one-third (1/3) of the building fronting a public street or officially mapped road.
- (e) Total number, type, or symmetrical location of doors, windows, or architectural properties and the exterior building materials;
- (f) Other exterior building modifications approved by the Review Authority. 2) Articulation of entrances and office areas is encouraged.
- 3) Front facing attached garage doors shall be no closer to the lot line than the façade of the principal building. This applies only to garage doors facing a public street. 3) The Director of Community Development may waive any of these requirements for exceptional circumstances were extraordinary or unusual circumstances or conditions applying to the lot or parcel, or building or structure that do not apply generally to other properties or uses in the same district and the granting of the waiver would not be of so general or recurrent nature as to suggest that the Ordinance should be changed.
- 4) The exterior first floor of all multi-family buildings shall consist of architectural masonry and/or glass.
- 5) The Director of Community Development may waive any of these requirements for additions to existing buildings or structures on a case by case basis.
- 5) **Site Plans.** Site Plans shall show and include the following:
 - a) Legal Description. Legal description and property location.
 - b) Dimensions. Dimensions of the development site, indicated along the property line. Distances from the property line to all buildings, structures and freestanding signs and building setback lines shall be indicated.
 - c) Building Layout and Signage. The location, footprint, outside dimensions, floor elevation, and square footage of all buildings, structures, and freestanding signs shall be indicated.
 - d) Setbacks. Front, side, and rear yard zoning setback lines shall be indicated and labeled as such.
 - e) Grades. Proposed and existing grading at two (2) foot intervals. In addition, location, grade, and dimensions of all existing and proposed paving surfaces and of all abutting streets.
 - f) Access. Existing and proposed pedestrian and vehicular access points, streets, drives, alleys, bicycle paths, bridges, intersections, and other pedestrian and vehicular circulation elements, labeled with street names, dimensions, and surface materials identified (i.e. asphalt, sod, concrete, etc.).
 - g) Parking. Location and dimensions of vehicle accommodation areas, including parking areas, loading areas, and circulation areas, with the surface material identified and showing the layout and dimensions of parking spaces and direction of travel lanes, aisles, or driveways. The number of parking spaces required, as outlined in
- k) **Commercial and Institutional Buildings.** Commercial and Institutional Buildings shall conform with the design guidelines hereinafter set as follows:
 - 1) Articulation on the rooflines shall be provided by using a pitched roof, a partial roof or parapet walls of varying heights.
 - 2) Rooftop mechanical equipment shall be concealed in order to prevent their visibility from grade level as measured from the lot lines and abutting street right-of-ways.
 - 3) At a minimum, the lower one-third (1/3) of the building shall be architectural masonry and/or glass.
 - 4) Materials and colors of the outbuildings or accessory structures shall be consistent with the main building.
 - 5) Articulation of building facades should be provided by using recesses and/or projections, ornamentation, windows, awnings, arcades or similar architectural elements.
 - 6) The Director of Community Development may waive any of these requirements for additions to existing buildings or structures on a case by case basis.
- l) **Industrial Buildings.** Industrial buildings shall conform with the design guidelines hereinafter set forth:
 - 1) Building exteriors of all new industrial buildings or additions shall be constructed of

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the Winnebago County Town/County Zoning Ordinance, shall be labeled.

- h) Surface of Off-Street Parking Areas. All required off-street parking areas and any driveway, interior access driveway or interior access drive to and from such off-street parking areas shall be hard surfaced with asphalt, concrete or other material to provide a durable, dust-free surface.
- i) Easements. Location and dimensions of all existing or planned easements, lands subject to deed restrictions or protective covenants, right-of-ways, and required emergency access ways.
- j) Stormwater Detention. The location and square footage of the stormwater detention pond, if required, shall be identified.
- k) Lands Dedicated to the Public. Identification of all land to be dedicated or reserved for public use, with the use named.
- l) Exterior Lighting. The location and type of outdoor lighting fixtures, if any, and shall also meet the following requirements:
 - 1) Any outdoor lighting shall be direct cut-off in nature.
 - 2) Light fixtures shall be selected with care to ensure that they are appropriately scaled in relation to their setting and to ensure that they are of a style that is compatible with the character of their immediate environment.
 - 3) All lighting wires/cables shall be placed underground.
 - 4) Accent lighting should be used to highlight architectural and landscape design elements when appropriate.
 - 5) Pedestrian walkways and parking areas shall be illuminated to a sufficient level so as to provide for safety and security.
- m) Site Constraints. Any easement, covenant or right-of-way, existing or planned, which creates site design constraints shall be indicated. Any design adjustments to these constraints shall not adversely impact the intent of these standards or the provisions of this Ordinance.
- n) Floodplain & Wetlands. Location of any floodplain, wetland, and shoreland boundary shall be shown, see Chapter 31 of the Municipal Code.
- o) Orientation. The location, proportion, and orientation of buildings or structures should complement the location, proportion and

orientation of surrounding land forms, buildings, or structures.

- p) Surrounding Land Uses and Zoning. The Review Authority shall consider the impact of the proposed development on the comprehensive plan, any neighborhood plan, and zoning, as amended. The Review Authority shall use the following criteria when assessing the development's impact on surrounding land uses:
 - 1) The development shall be consistent with the objectives of the comprehensive plan and any neighborhood plan.
 - 2) The development shall be compatible with the character and objectives of the zoning district or districts within which it is located.
 - 3) The development shall be compatible with the character of the neighborhood which surrounds the development.
- q) Site Access. Site access shall be governed by the following criteria:
 - 1) Site entrance drive dimensions such as widths, radii and visibility triangles shall be identified.
 - 2) An adequate internal stacking distance shall be provided from the property line at each entrance.
 - 3) Appropriate traffic control measures including signs, crosswalks, etc. at all entrances to public rights-of-way may be required.
 - 4) Adjacent developments are encouraged to share a common entrance drive.
 - 5) Access to adjoining sites should be coordinated, where possible, with cross access easements, which shall be a minimum of thirty (30) feet, and are encouraged to link parking areas.
- r) Protection of Natural Features.
 - 1) Preservation. All new development shall preserve, enhance, or protect existing natural features. The Site Plan, or accompanying documents, shall evidence the means by which the development addresses the following:
 - (a) Minimize disruption of existing natural features, and wherever possible, incorporating them into the overall design.

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- (b) Prior to development, protecting all natural elements from damage due to construction activities.
 - (c) Comply with Chapter 31 of the Municipal Code, entitled “Erosion Control and Stormwater Management Ordinance.”
 - 2) Open Space. The following specific areas shall be preserved as undeveloped open space:
 - (a) Wetlands
 - (b) Lands in a designated floodplain or floodway.
 - (c) Habitats of endangered wildlife or vegetation as identified by the Federal and/or Wisconsin Department of Natural Resources.
- 6) **Landscape Plans.** Landscape Plans shall comply with the Site Landscape Standards of Section 29.05 of this Ordinance; in addition, the plan shall show and include the following:
 - a) Buildings. The location and footprint of any and all buildings and structures.
 - b) Dimensions. Dimensions of development site, indicated along the property line.
 - c) Streets. Existing and proposed pedestrian and vehicular access points, streets, drives, alleys, bicycle paths, bridges, intersections, and other pedestrian and vehicular circulation elements, labeled with street names, dimensions, and surface materials identified (i.e. asphalt, sod, concrete, etc.).
 - d) Parking. The location and dimension of parking lots, parking spaces, and parking lot access ways.
 - e) Easements. Location and dimensions of all existing or planned easements, lands subject to deed restrictions or protective covenants, lands to be dedicated or devoted to public use, and rights-of-way.
 - f) Lighting, Signage, and Freestanding Structures. The location and dimensions of outdoor lighting fixtures, freestanding signs, permanent or temporary walls and fences, waste and trash disposal facilities, surface utility structures, and other freestanding structural features.
 - g) Recreational Facilities. The location and dimension of playgrounds, tot lots, and other recreational facilities.
 - h) Dumpster Enclosure. Trash dumpsters shall be screened with fencing of decorative wood or masonry, compatible with the building design, of at least six (6) feet in height, with a solid, attractive single or double access gate on one side only. Shrubs are encouraged along the fencing.
 - i) Mechanical and Utility Equipment. All freestanding utility and mechanical equipment shall be screened from view through the use of coniferous plant materials or fencing compatible with the proposed building design.
 - j) Service Areas. All service areas, such as loading docks, shall be screened from view of a public street through the use of coniferous plant materials or fencing compatible with the proposed building design.
 - k) Landscape Improvement Table. A Landscape Improvement Table with the following information shall be submitted:
 - 1) Total area of site;
 - 2) Total area of parking and other paving areas proposed on site;
 - 3) Total area of site required to be landscaped;
 - 4) The quantity, installation size, height of all trees and shrubs at the time of planting; and
 - 5) The percentage of tree family, genus and species proposed.
 - l) Plants. All plants shall be labeled and identified on the landscape plan.
 - m) Grading. Existing and proposed contours and grades at a two (2) foot interval, including the location, slope ratios (horizontal to vertical) of all proposed berming, at one (1) foot contour intervals. Location, extent and general elevations and slope ratios of all surface water detention areas and drainageways. Elevations at top and bottom of all proposed retaining and screening walls and fences. Existing lines should be shown as dotted lines.
 - n) Ground Cover. Specification of the type and boundaries of all proposed ground cover, including both scientific and common names of all proposed plant materials.
 - o) Non-Living Ground Cover. The location of paving materials and non-living ground cover identified and labeled.
 - p) Tree Lines. Tree line of wooded areas shall be identified.

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- q) Existing Trees. Location, species, and size of all existing trees that are six (6) inches or larger in diameter measured fifty-four (54) inches above natural grade shall be identified. Any trees to be removed should be clearly identified. Trees which will be used to meet landscape requirements shall be indicated. If required for reasons of clarity, this information may be depicted as a supplemental illustration.
 - r) Maintenance. The Landscaping Plan should identify how plantings and buffer areas will be maintained including location of any irrigation systems.
 - s) Bond or Letter of Credit. A bond or letter of credit shall be provided, if the applicant is seeking occupancy before all landscaping has been completed, to ensure the landscaping plan will be completed.
 - t) Trees, Shrubs and Ground Cover. The intent of this section is to encourage the diversification of the Town of Menasha's Urban Forest and is not meant to limit the Developer or the development of commercial, retail or industrial sites.
 - 1) Required trees shall conform with the design guidelines hereinafter set as follows:
 - (a) Plant no more than 25% of one tree family: (i.e. Aceraceae (maples))
 - (b) Plant no more than 15% of a genus: (i.e. Acer x freemanii, Acer rubrum, Acer platanoides, Acer saccharum)
 - (c) Plant no more that 10% of a species: (i.e. Acer platanoides)
 - 2) The Developer is encouraged to utilize The Town of Menasha Tree Guide when selecting trees. The tree guide is included with the Site Plan Review application.
 - 3) A waiver of the design guidelines may be granted by the Director of Community Development on a case by case basis for unique circumstances.
- 7) **Utility Plans.** Utility Plans shall show and include the following:
- a) Utility lines. Location and dimensions, in length and diameter where applicable, of all aboveground and underground conduits and utility lines including storm and sanitary sewers, water mains, electrical, natural gas, and communication (cable, telephone, etc.) lines.
 - b) Connections. Location of all utility connections and metering facilities, including fire hydrants, Fire Department connections, existing wells, pumping stations and lift stations.
 - c) Cross-Sections. Road and paving cross-sections and details.
 - d) Buildings. Location and footprint of any and all buildings and structures.
 - e) Streets. Location and names of existing and proposed streets and intersections, and the location of parking lots, sidewalks, and bike paths, and other elements of vehicular and pedestrian circulation.
 - f) Plumbing. Plumbing plans showing, in detail, the size and location of all water meters.
 - g) Storm, Sanitary, and Water System Requirements. Storm sewer, sanitary sewer, and water utility systems, as outlined in the Utility Plan, shall meet the standards and specifications of the Town of Menasha. These provisions may require the designation of easements providing access for public utility purposes.
 - h) Electric, Gas, and Communication System Requirements. Electric, gas, and communication utility systems, as designated on the Utility Plan, shall meet the requirements of the respective utility company's rules and regulations.
 - i) Placement. Utility systems shall be placed in accordance with Town Ordinances and utility companies' rules and regulations. The Review Authority may require the underground installation of lines and distribution points, the elimination of poles and overhead lines, or the simultaneous organization and installation of utility systems.
- 8) **Stormwater & Erosion Control Plan.** All Stormwater and Erosion Control Plans shall comply with Chapter 31 of the Municipal Code.
- a) All stormwater management facilities shall be inspected by the Town Engineer, prior to the Building Inspector issuing an occupancy permit, for compliance with the approved stormwater management plan. The Developer shall contact the Department of Community Development when the stormwater management facilities are completed to schedule an inspection.
- 9) **Digital Plans.** A digital copy of all plans, elevations, and sections in AutoCad (*.dwg) or compatible form by Electronic Mail or Compact Disc shall be submitted with the Site Plan Review application and with any revision submittals to the Department of Community Development.

SITE LANDSCAPE STANDARDS

- 1) **Intent.** The following landscape standards shall be established as part of the Landscape Plan to ensure the following:
 - a) Neighboring properties are shielded from subject site uses;
 - b) Subject site is shielded from the negative impacts of adjacent uses, including streets or railroads; and
 - c) The appearance and desirability of the development contributes to the overall aesthetics, health, safety and welfare of the Town.
- 2) **Generally.** The following shall establish the standards for the preparation and submission of required plans for landscape and screening:
 - a) **Landscape Plan Required.** A Landscape Plan shall be required for all projects requiring Site Plan Review, unless deemed unnecessary by the Director of Community Development.
 - b) **Content of Landscape Plan.** At a minimum, all Landscape Plans shall meet the Landscape Development Standards of this Section.
- 3) **Timing of Landscape Improvements.** All landscaping shall be completed before final occupancy is granted. If it is not possible, due to weather conditions, then the applicant shall submit a bond or letter of credit in the amount for the cost of completing such landscaping as required in the Landscaping Plan.
- 4) **Landscape Open Space.** All open space or open areas required by the yard requirements of the zoning district or as required for storm water control or other purposes shall be landscaped in accordance with the standards set forth in this Section.
- 5) **Landscape Development Standards.**
 - a) **General Requirements.** The following Landscape Development Standards apply to all new developments:
 - 1) All landscaping shall not obstruct pedestrian walkways, vehicular use of driveways, and parking stalls.
 - 2) Stormwater control devices, such as detention basins and ponds, culverts, and rip rap structures shall be landscaped to reduce their visual impacts. Such landscaping shall not negatively impact the operation of such devices, but may include evergreen plantings, shrubs, hedges, and other suitable

planting materials that will control siltation and erosion.

- 3) Fire hydrants shall be free from obstruction on all sides by a minimum of three (3) feet.
- 4) Landscaping, other than ground cover, shall not be placed over any existing or proposed utility easements.
- 5) Environmentally sensitive areas, including wetlands, designated by the Town shall be preserved and untouched by development.
- 6) Berms shall be designed to the following standards:
 - (a) Berms shall not be placed over existing or proposed utility easements.
 - (b) Maximum four (4) feet in height, unless otherwise approved by the Director of Community Development on a case by case basis, and shall comply with the approved drainage plan.
 - (c) The slope of the berm shall not exceed the ratio of 3:1 (horizontal to vertical).
 - (d) Vegetative cover or other landscaping placed on top of berms and berms located near rights-of-way shall require staff approval.
 - (e) The Town strongly discourages berms if they would replace existing vegetation that could be used as screening.
- 7) Screen fencing should complement the development. Chain link and barbed wire fencing shall be prohibited in all developments.
- b) **Multi-Family Site Landscaping Requirements.** The following Landscape Development Standards apply to multi-family residential uses:
 - 1) **Buffer Strip Requirements.** All multi-family developments shall utilize screening or buffering between land uses. Buffers shall be composed of landscaping plantings, earthen berms or screen fencing.
 - (a) Buffer strips shall be provided along the periphery of the development site, except where cross access, utilities or special circumstances prohibit.

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- (b) Screen fencing or walls shall be of wood, face brick, or other material approved by the Director of Community Development. When a fence has two distinct sides, the one with protruding posts, studs, etc. shall face the development site.
- 2) Planting Material Requirements. All multi-family developments shall provide planting material as follows:
- (a) Trees. At least one (1) tree per three thousand five hundred (3,500) square feet of site area.
 - (1) Deciduous trees shall have a trunk diameter of at least two (2) inches measured at six (6) inches above the ground, and shall be a minimum of four to six (4-6) feet in height at the time of planting.
 - (2) Evergreen trees shall be at least four to six (4-6) feet in height at the time of planting.
 - (b) Shrubs. At least one (1) shrub per one thousand (1,000) square feet of site area.
 - (1) Non-flowering shrubs shall be at least twenty-four (24) inches in height at the time of planting.
 - (c) Ground Cover. Areas of the site that are not occupied by buildings, paving, or accessory structures shall have ground cover.
 - (1) Ground cover includes low-growing, living plant material such as perennials, grass, ivy, and similar plants. For purposes of this Ordinance, chipped wood, bark, similar mulching materials or nonliving artificial plant materials are not acceptable substitutes for required ground cover.
- c) Commercial Site Landscaping Requirements. The following landscape requirements apply to commercial uses, which include all commercial, office and institutional uses:
- 1) Buffer Strip Requirements. All commercial developments shall utilize screening or buffering between land uses. Buffers shall be composed of landscaping plantings, earthen berms or screen fencing.
 - (a) Buffer strips shall be provided along the periphery of the development site, except where cross access, utilities or special circumstances prohibit.
- (b) Screen fencing or walls shall be of wood, face brick, or other materials approved by the Director of Community Development. When a fence has two distinct sides, the one with protruding posts, studs, etc. shall face the development site.
- 2) Planting Material Requirements. All commercial developments shall provide planting material as follows:
- (a) Trees. At least one (1) tree per three thousand five hundred (3,500) square feet of site area.
 - (1) Deciduous trees shall have a trunk diameter of at least two (2) inches measured at six (6) inches above the ground, and shall be a minimum of four to six (4-6) feet in height at the time of planting.
 - (2) Evergreen trees shall be at least four to six (4-6) feet in height at the time of planting.
 - (b) Shrubs. At least one (1) shrub per one thousand (1,000) square feet of site area.
 - (1) Non-flowering shrubs shall be at least twenty-four (24) inches in height at the time of planting.
 - (c) Ground Cover. Areas of the site that are not occupied by buildings, paving, or accessory structures shall have ground cover.
 - (1) Ground cover includes low-growing, living plant material such as perennials, grass, ivy, and similar plants. For purposes of this Ordinance, chipped wood, bark, similar mulching materials or nonliving artificial plant materials are not acceptable substitutes for required ground cover.
- (d) Open Space Requirements. The B-4 and B-5 zoning districts include a thirty (30) percent open space requirement, as stated in the Winnebago County Town/County Zoning Ordinance.
- (1) Right-of-way or roadway may not be used to calculate the open space requirement.

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- (2) Developments in the B-4 & B-5 zoning districts shall have enhanced landscaping in order to meet the intent of the district. The Director of Community Development will approve the enhanced landscaping plans in the B-4 and B-5 zoning districts, unless the Plan Commission conditions that it approves the Landscape Plan as part of the Town B-4/B-5 Conditional Use Permit.
- 3) **Parking Lot Landscaping Requirements.** All commercial parking lots requiring at least a minimum of twenty (20) or more parking spaces, as required by the Winnebago County Town/County Zoning Ordinance, shall provide landscaping in accordance with the provisions of this Ordinance.
- 4) **Interior Island Landscaping Requirements.** Interior parking lot islands shall be reviewed by Town staff on a case-by-case basis to determine if they are acceptable for the site (e.g. traffic flow, open space requirements, etc.). If deemed acceptable for the site, the interior island(s) should be landscaped.
- d) **Industrial Site Landscaping Requirements.** The following Landscape Development Standards apply to industrial uses:
 - 1) **Buffer Strip Requirements.** All industrial developments shall utilize screening or buffering between land uses. Buffers shall be composed of landscaping plantings, earthen berms or screen fencing.
 - (a) Buffer strips shall be provided along the periphery of the development site, except where cross access, utilities or special circumstances prohibit.
 - (b) Screen fencing or walls shall be of wood, face brick, or other materials approved by the Director of Community Development. When a fence has two distinct sides, the one with protruding posts, studs, etc. shall face the development site.
 - (c) The Director of Community Development may allow berms to exceed the height requirement.
 - 2) **Plant Material Requirements.** Landscaping shall be provided in the M-1 and M-2 districts and the Director of Community Development shall approve the landscape plan on a case-by-case basis.
 - e) **Parking Lot Landscaping Requirements.** The following landscape requirements shall apply to parking lots with twenty (20) or more parking stalls:
 - 1) Each parking row, regardless of its length, should begin and end with a landscape island.
 - 2) No parking space shall be more than ninety (90) linear feet away from either a landscaped parking island or landscaped buffer strip.
 - 3) Shrubs within parking lots islands shall be maintained at a height not to exceed three (3) feet.
 - 4) Parking lot landscape areas shall have a minimum width of eight (8) feet and a depth equal to the depth of the parking stall.
- 6) **Alternative Landscape Plan/Methods.** These standards, provided herein, provide specific requirements for site landscaping. However, the Town recognizes that because of the wide variety of types of developments and sites and the relationships between them, it is neither possible nor prudent to establish inflexible landscaping requirements. Therefore, the Town, by the discretion of the Director of Community Development, may either require more intensive or allow less intensive landscaping whenever it finds that such deviations will satisfy the intent set forth in this Section.
 - a) The alternative plan must indicate the type, number, location, coverage, and height (at planting and maturity) of the plantings.
 - b) Whenever the Town allows or requires deviation from the requirements set forth in this Section, it shall enter on the face of the Landscape Plan the reasons for allowing or requiring deviation from the requirements of this Section.
 - c) The Director of Community Development shall approve minor revisions to an approved landscaping plan. The revision must have at least the same amount of landscaping and similar types of plant species. A list of the new plant species shall be provided with the revision.
- 7) **Maintenance Requirements.** The following maintenance requirements apply to all new developments:
 - a) All landscaping shall be maintained for the life of the project.
 - b) Dead or damaged landscaping shall be replaced within one (1) month of notification by the Town,

or if not possible at the current time, during the next planting season.

Table 1. Summary of Minimum Landscaping Requirements.

District	Trees (per 3,500 sq.ft. of site)	Shrubs (per 1,000 sq.ft. of site)	Ground Cover	Open Space
Multi-Family (R-5)	1	1	Required on all site areas without buildings and pavement	None
B-1, B-2, B-3, P-1	1	1		None
B-4, B-5	1	1		30%
M-1, M-2	Required (Discretion of Community Development Director)			None

29.05 TOWN B-4 & B-5 CONDITIONAL USE PERMIT

- 1) **Intent and Purpose.** The intent and purpose of this Section is to establish a procedure for review of developments in the B-4 (Business Park District) and B-5 (Planned Commercial Business District) zoning districts as allowed under the Winnebago County Town/County Zoning Ordinance.
- 2) **Applicability.** All uses allowed in the B-4 and B-5 zoning districts shall be reviewed by the Plan Commission and Town Board, which shall only approve plans that meet all the requirements of the Winnebago County Town/County Zoning Ordinance and Town Ordinances.
- 3) **Procedure.** The application procedure shall be as follows:
 - a) The applicant shall consult with Community Development staff prior to submitting an application to review the application requirements and review process and to determine whether any optional submittals will be required.
 - b) Town staff shall review the application and make a recommendation to the Plan Commission to approve, approve with conditions, defer, table, or deny with reason.
 - c) A public hearing before the Plan Commission shall be held for Town residents and property owners within three hundred (300) feet of the proposed development will be notified by the Town.
 - d) The Plan Commission shall meet in accordance with open law and discuss and take action on the application. The Plan Commission, considering the recommendation from Community Development staff, shall make a recommendation to the Town Board to approve, approve with conditions, defer, table, deny with reason, or remove any applications from the agenda.
 - e) The Town Board shall meet in accordance with open law and discuss and take action on the application. The Town Board, considering the recommendation from the Plan Commission and Town Staff, shall approve, approve with conditions, defer, table, deny with reason, or remove any application from the agenda.

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- 4) **Application.** Applications for Town B-4 & B-5 Conditional Use Permits may be obtained from and shall be filed with the Department of Community Development at least fifteen (15) days prior to the Plan Commission meeting at which action is desired. The application shall be made on Town forms and shall be fully, accurately and legibly completed, and shall include application, fees, and all required materials.
 - 1) Proposed use of the land and building(s);
 - 2) Total number of employees;
 - 3) Hours of operation;
 - 4) Total occupancy of building (if restaurant, church or other assembly use);
 - 5) Total number of units (if residential); and
 - 6) Number, type, and size of vehicles stored outdoors (recreational and commercial).
- 5) **Submittal Requirements.** The applicant shall submit the following to the Department of Community Development:
 - a) Application form;
 - b) Fees as set forth in Appendix B Fee Schedule, reference this code section;
 - c) Ten (10) copies of all plans, elevations, and sections on 24" by 36", or greater, sheet of paper;
 - d) Two (2) copies of all plans, elevations, and sections on 11" by 17" sheet of paper; and
 - e) Digital copy of the plans, elevations, and sections in AutoCad (*.dwg) or compatible form by Electronic Mail or Compact Disc.
- 6) **Amendments.** Any change to an approved Site Plan shall require the submission of revised plans, fees as set forth in the Appendix B Fee Schedule, reference this code section, and approval by the Review Authority.
- 7) **Required Materials.**
 - a) Application. Applications shall be made on forms furnished by the Department of Community Development and shall include the following:
 - 1) Names, addresses and telephone number of the owner of site and architect or engineer;
 - 2) Description of subject site by address (if available) and parcel number, project name, site zoning, current land use, surrounding land uses, proposed use, proposed zoning, lot size, building/structure size, and previous occupant.
 - b) Plan Data. The submission of one or more of the required plans, or a portion(s) of any one of the plans, may be waived by the Director of Community Development when such are not applicable. Separate plans for each of the below are not required. Plans may be combined into one or more plans provided that the required data is shown. Plan data shall include the following:
 - 1) Proposed use of the land and building(s);
 - 2) Total number of employees;
 - 3) Hours of operation;
 - 4) Total occupancy of building (if restaurant, church or other assembly use);
 - 5) Total number of units (if residential); and
 - 6) Number, type, and size of vehicles stored outdoors (recreational and commercial).
 - c) Plan of Operation. The Plan of Operation shall, in letter or report form, include the following, when applicable:
 - d) Building Plan. The Building Plan shall include the following:
 - 1) Layout of buildings;
 - 2) Size, layout, and use of rooms; and
 - 3) Elevations.
 - e) Site Plan. The Site Plan shall include the following:
 - 1) Location of all existing and proposed streets, drives, easements, right-of-ways, parking as required, vehicular and pedestrian access points, pedestrian walkways, and freestanding signs;
 - 2) Land uses and zoning classifications of surrounding areas;
 - 3) Dimensions of the development site, indicated along the property line;
 - 4) The location, footprint, and square footage of all buildings and structures;
 - 5) Front, side, and rear yard zoning setbacks labeled as such;
 - 6) Proposed and existing grading at two (2) foot intervals;
 - 7) Location, grade, and dimensions of all existing and proposed surfaces and of all abutting streets; and
 - 8) The location, elevation and type of outdoor lighting fixtures, if any.
 - f) Landscape Plan. Landscape Plans shall include the following:
 - 1) The location and footprint of any and all buildings and structures;
 - 2) Dimensions of development site, indicated along the property line;
 - 3) Existing and proposed pedestrian and vehicular access points, streets, drives, alleys, bicycle paths, bridges, intersections, and other pedestrian and vehicular circulation elements, labeled with street names, dimensions;
 - 4) The location and dimension of playgrounds, tot lots, and other recreational facilities;
 - 5) The site area and the total area of the site required to be open space;

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- 6) Existing and proposed contours and grades at two (2) foot intervals, including the location, slope ratios (horizontal to vertical), of all proposed berming, at a one (1) foot contour interval. Location, extent and general elevations and slope ratios of all surface water detention areas and drainageways;
 - 7) The location, quantity, installation size, height of all trees and shrubs at the time of planting;
 - 8) Specification of the type and boundaries of all proposed ground cover;
 - 9) Tree line of wooded areas; and
 - 10) Location and size of all existing trees that are six (6) inches or larger in diameter measured fifty-four (54) inches above natural grade.
- g) Digital Plans. A digital copy of all plans, elevations, and sections in AutoCad (*.dwg) or compatible form by Electronic Mail or Compact Disc shall be submitted with the Site Plan Review application and with any revision submittals to the Department of Community Development.
- 8) **Approval.** Upon approval or conditional approval of a Town B-4 or B-5 Conditional Use Permit by the Town Board, an application for Site Plan Review shall be submitted that meets all the requirements of Section 29.03 of this Ordinance and other Town Ordinances. No building or construction permits shall be issued until the Site Plan Review process has been completed and the development receives approval from the Review Authority.
 - 9) **Revocation.** The approval of any Town B-4 or B-5 Conditional Use Permit required by this Section shall remain valid for one (1) year after the date of approval, after which time the conditional use permit shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this Ordinance, "actual construction" shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property, or stockpiling of materials on the site shall not constitute actual construction. If an approved Town B-4 or B-5 Conditional Use Permit expires for such reason, any subsequent development or use of the property shall require a new Town B-4 or B-5 Conditional Use Permit application.
 - 10) **Modifications.** Modifications of the use following action by the Town Board shall require a new Town B-4 or B-5 Conditional Use Permit review and shall be subject to a new application and fee.

- 11) **Violation.** Construction or other activities contrary to an approved Town B-4 or B-5 Conditional Use Permit, or in absence of an approved Town B-4 or B-5 Conditional Use Permit, shall be in violation of this Section.
- 12) **Penalty.** Any person, firm, or corporation who fails to comply with the provisions of this Section shall, upon conviction thereof, pay forfeiture as set forth in Appendix C Fines and Penalties, reference this code section, plus the cost of prosecution for each violation and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding thirty (30) days. Each violation and each day a violation exists or continues shall constitute a separate offence.

29.07 SIGNS *[Recreated 11/19/07]*

(1) **PURPOSE AND INTENT**

- (a) The purpose of this section is to create a comprehensive and balanced system of street graphics that will preserve the right of free speech and expression, provide easy and pleasant communication between people and their environment, and avoid visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance.
- (b) With these purposes in mind, it is the intent of this Section to:
 - (1) Provide functional flexibility, encourage variety, and create an incentive to relate signing to basic principles of good design;
 - (2) Allow signage to be expressive of the identity of individual activities and the community as a whole;
 - (3) Assure that public benefits derived from expenditures of public funds for the improvement and beautification of streets, and other public structures and spaces, are protected by exercising reasonable controls over the character and design of sign structures; and
 - (4) Authorize the use of street graphics that are legible in the circumstances in which they are seen.

(2) **ADMINISTRATION**

- (a) The Director of Community Development shall be the administrator of this section. The Director of Community Development or its designee shall have the responsibility and authority to administer and enforce all provisions of this Section, other than those provisions with powers

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specifically reserved to the Town Board of Supervisors or the Planning Commission.

- (b) Enforcement. The Department of Community Development shall issue permits as required by this Section. The Department of Community Development or its designee shall also ensure signs and street graphics comply with this Section and any other applicable law. The Department shall also enforce the requirement that all Signs properly comply with this Section by procuring a permit. The Department shall make such inspections as may be necessary and shall initiate appropriate action to enforce compliance with this Section and other applicable laws.
- (c) Department of Community Development Powers. The Department of Community Development shall have the power and authority to administer and enforce this Section. Included among such powers are the following specific powers:
 - (1) Every sign for which a permit is required shall be subject to design approval by the Department of Community Development and may be inspected by its designee, including verification of the use of the parcel, and thus the standards that apply to signage. When deemed advisable, a sign may be inspected at the point of manufacture.
 - (2) Upon presentation of proper identification to the sign owner or owner's agent, the Director of Community Development or his designee may enter the sign area for the purposes of inspecting the sign, sign structure, and any fasteners securing the sign to a building or support for compliance with this Section. In cases of emergency, where imminent hazards to persons or property are known to exist, and where the sign owner, or owner's agent, is not readily available, the Director of Community Development or his designee may enter the sign area for purposes of inspection or remediation.
 - (3) Upon issuance of a Stop Work Order from the Department of Community Development, work on any sign that is being conducted in any manner contrary to this Section shall be immediately stopped. This notice and order shall be in writing and shall be given to the owner of the parcel, to the sign owner, or to the person performing the work.
 - (4) The Department of Community Development has the authority to revoke any permit authorized by this Section if the sign violates this Section or another law, provided that the Department shall offer the

sign owner an opportunity to be heard. The person whose permit is under consideration shall be given at least fourteen (14) days written notice of the time, place, and reason for the hearing. The sign owner and/or person identified in the permit shall be permitted to present relevant facts and legal argument concerning the pending permit revocation to the Planning Commission. Following this hearing, the Planning Commission shall consider the merits of the case and shall present a written decision.

- (5) If the Department of Community Development has determined that a violation has occurred, the owner shall have thirty (30) days to bring the sign into compliance or remove the sign. If, however, the Department of Community Development believes the health, safety, or welfare of the citizens is endangered by any violation of this Section, the Department of Community Development may immediately revoke any sign permit and the sign shall be removed by the owner immediately or may be caused to be removed by the Town of Menasha. The sign owner shall not be entitled to compensation for the sign removal and shall reimburse the Town of Menasha for any cost incurred in connection with the removal.
- (6) A sign installed after the effective date of this Section, and not conforming to this Section, shall be removed by the owner or may be caused to be removed by the Town of Menasha. The sign owner shall not be entitled to compensation for the sign removal and shall reimburse the Town of Menasha for any cost incurred in connection with the removal.
- (7) Any Sign which does not wholly comply with the provisions of this Section and which is not classified as legal nonconforming shall be ordered removed. If the sign owner, lessee, or owner of the premises fails to remove such sign, the Community Development Director may contract for removal of such sign(s) and assess all costs associated with such removal as a special tax against the property on which the sign(s) were located, such tax to be collected in the same manner as property taxes are collected in the Town of Menasha.
- (8) Any person who shall violate any portion of this Section shall upon due conviction thereof forfeit not less than an amount set forth in Appendix C Fines and Penalties, reference this code section, for each such offense, together with the costs of prosecution, and in default of the payment of such forfeiture and costs shall be imprisoned

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in the county jail until said forfeiture and costs of prosecution and paid but not to exceed thirty (30) days.

(3) **APPEALS.** The Town of Menasha Board of Supervisors may waive or modify the provisions of this ordinance where, in its judgment, such waiver modification would further the public interest and uphold the purpose and intent of this ordinance as set forth in Section 29.07 (1). Any request for an appeal to this ordinance shall first be presented to the Planning Commission for review and recommendation to the Town Board of Supervisors.

(4) **CONFLICT.** If any part of this Section is found to be in conflict with any other Section or with any other part of this Section, the most restrictive or highest standard shall prevail. If any part of this Section is explicitly prohibited by federal or state statute, that part shall not be enforced.

(5) **DEFINITIONS.** For the purposes of interpreting and enforcing this Section, the following definitions shall apply:

- (a) *Abandoned Sign:*
 - (1) Business sign- the business it advertises is no longer conducted; advertising, or
 - (2) Directional sign- owner no longer receiving lease payment or rental income.
- (b) *Animation or Animated:* the movement or optical illusion of movement of any part of a street graphic structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity.
- (c) *Architectural Detail:* any projection, relief, cornice, column, change of building material, window, or door opening on any building.
- (d) *Banner:* a sign composed of a logo or design on a lightweight material either enclosed or not enclosed in a rigid frame and secured or mounted to allow motion caused by the atmosphere.



- (e) *Bare-Bulb Illumination:* a light source that consists of bare light bulbs with a 20-watt maximum for each bulb.
- (f) *Billboard/Off-Premises Sign:* signs that advertise or call attention to goods, products, individuals, businesses, and/or services not sold, available or located on the premises or property on which the sign is located.

- (g) *Building:* A structure having a roof supported by columns or walls.
- (h) *Building Setback Line:* line established by Town or County Zoning Ordinance beyond which no building may extend.
- (i) *Canopy:* a cloth, plastic, or other non-structural covering over a rigid frame that is permanently attached to a building or temporary in nature and, in some cases, can be raised or retracted to a position against the building when not in use.



- (j) *Changeable Sign:* a sign that is designed so that its characters, letters, illustrations, or other content can be changed, altered, or rearranged without physically altering the permanent physical face or surface of the sign; this includes manual, electrical, electronic, or other variable message signs.
- (k) *Construction Sign:* a temporary sign identifying individuals or companies involved in design, construction, wrecking, financing, or development work when placed upon the premises where that work is under way, but only for the duration of the work.
- (l) *Department:* the Department of Community Development.
- (m) *Directional Graphic:* an on-site street graphic at the exit or entrance of a premises, that has two or more driveways.
- (n) *Directional Sign:* standard sign placed by the Town at the intersection (on public property) where a minor street intersects a major thoroughfare indicating the directions to a business with access located on the minor street.
- (o) *External Illumination:* illumination of a sign that is affected by an artificial light source that is not contained within the sign itself.
- (p) *Façade:* any side of a building facing a public way or space and finished accordingly.
- (q) *Flashing Illumination:* illumination in which the artificial source of light is not maintained stationary or constant in intensity and color at all times when a street graphic is illuminated, including illuminated lighting.

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- (r) *Government Sign*: a sign authorized by the Town of Menasha, another government agency, the State of Wisconsin, or the federal government.
- (s) *Grade*: finished surface of the ground around the sign, consistent with the predominant grade for the site.
- (t) *Graphic*: see street graphic and/or special street graphic.
- (u) *Ground Sign*: a street graphic supported by one (1) or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building; it includes a pole graphic and a monument graphic.
- (v) *Height*: measurement between the grade at the base of the sign and the tallest point of the sign or structure.
- (w) *Illumination or Illuminated*: a source of any artificial or reflected light, either directly from a source of light incorporated in, or indirectly from an artificial source, so shielded that no direct illumination from it is visible elsewhere than on and in the immediate vicinity of the street sign.
- (x) *Indirect Illumination*: A source of external illumination, located away from the sign, that lights the sign, but which is itself not visible elsewhere than on and in the immediate vicinity of the street sign.



- (y) *Internal Illumination*: A light source that is concealed or contained within the street graphic and becomes visible in darkness through a translucent surface.



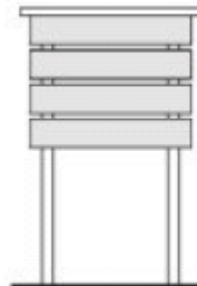
- (z) *Item of Information*: a word, logo, abbreviation, symbol, or geometric shape.

- (aa) *Monument Sign*: a ground graphic permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole.



- (bb) *Multi-Use Building*: building devoted to two or more individual tenants, whether office, commercial, mixed-use, industrial, or institutional.
- (cc) *Neon Tube Illumination*: a source of light for externally lit street graphics supplied by a neon tube that is bent to form letters, symbols, or other shapes.
- (dd) *Nonconforming Street Graphic*: a street graphic that was lawfully constructed or installed prior to the adoption or amendment of this Section and was in compliance with all the provisions of this Section then in effect, but which does not presently comply with this Section.
- (ee) *Off-Premises Sign*: see Billboard.
- (ff) *On-Premises Sign*: sign, graphics or a display for commercial, industrial, institutional, service, or entertainment purposes, promoting products, uses or services conducted, sold or offered upon the same premises where the sign is located, and whose purpose is to sell or identify a product, service or activity.
- (gg) *Planning Commission*: the Planning Commission for the Town of Menasha.

- (hh) *Pole Sign*: a freestanding street graphic that is permanently supported in a fixed location by a structure of poles, uprights, or braces from the ground and not supported by a building or a base structure.



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(ii) *Political Campaign Sign:* Signs promoting candidates for public office or issues on election ballots, see section 29.07 (6)(i)(2).

(jj) *Portable Sign:* a street graphic not permanently attached to the ground or a building, or designed to be permanently attached to the ground or a building

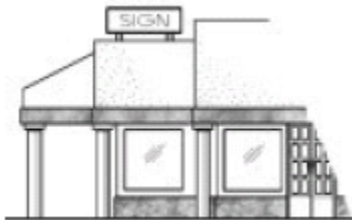


(kk) *Premises:* a separate tract of land or parcel of land that has been or may be conveyed by deed or has otherwise been specified as a separate lot on an approved land development plan

(ll) *Projecting Sign:* a street graphic attached to and projecting from the wall of a building at a ninety degree (90°) angle from the plane of the wall to which it is attached



(mm) *Roof Sign:* a sign attached to or supported by the roof of a building



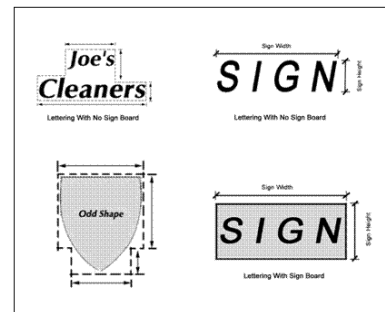
(nn) *Sign:* a notice bearing a name, direction, warning, or advertisement, that is displayed or posted for public view

(oo) *Signable Area for Projecting Graphics and Awnings:* one (1) area enclosed by a box or outline, or a single continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures, and

- (1) Shall not project above, below, or beyond the edges of the awning on which it is displayed, and
- (2) Shall not extend horizontally a distance greater than sixty (60) percent of the width of the awning on which it is displayed

(pp) *Signable Area for Wall Graphics:* one (1) area free of architectural details on the façade of a building or part of a building which shall include the entire area:

- (1) Enclosed by a box or outline, or a single continuous perimeter composed of a rectangle (or multiple rectangles), circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures, and
- (2) Shall not project above, below, or beyond the edges of the face of the building wall or architectural element on which it is located, and
- (3) The signable area for oddly shaped symbols or graphics shall be determined by enclosing the graphic in a rectangle or multiple rectangles.



(qq) *Signage:* total sign area of all signs incorporated on the subject site

(rr) *Sign Removal:* removal of both sign and supporting structure

(ss) *Size:* the total area of the face used to display a street graphic, not including its supporting poles or structures; if a graphic has two (2) faces that are parallel, not more than two (2) feet apart, and supported by the same poles or structures, the size of the graphic is one-half (1/2) the area of the two faces

(tt) *Special Street Graphic:* a street graphic, other than a ground sign or wall graphic, regulated by Section 32.08(3) of this Section

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(uu) *Street Graphic*: a lettered, numbered, symbolic, pictorial, or illuminated visual display on a building designed to identify, announce, direct, or inform that is visible from a public right of way

(vv) *Structure*: anything built, including a building that requires a permanent location

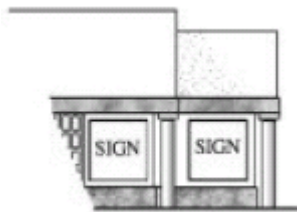
(ww) *Temporary Sign*: A sign or banner that will only be displayed temporarily for a time period specified by the Town in this Section.

(xx) *Tenant*: a use located in a multi-use building or shopping center

(yy) *Wall Graphic*: a street graphic painted on or attached to a wall of a structure and in the same plane as the wall



(zz) *Window Graphic*: a street graphic applied, painted, or affixed to or in the window of a building; a window graphic may be temporary or permanent



(6) **EXEMPT SIGNS.** Sign permits shall not be required for the following:

(a) **Name and Address.** Up to two (2) signs indicating address, number and/or name of occupants of the premises, that do not exceed two (2) square feet in area per side, and do not include any commercial advertising or other identification.

(b) **Decals.** Decals affixed to windows or door glass panels, such as those indicating membership in a business group or identifying credit cards accepted at the establishment.

(c) **Flags, Emblems and Insignia of Government Agencies, Religious, Charitable, Public, or Non-Profit Organizations.** These types of signs are

exempt from permit requirements, however, they are subject to the following requirements:

(1) No single flag that is flown shall exceed forty (40) square feet in area (excluding the American flag) and no single parcel shall fly more than three (3) flags;

(2) If the total area of flags exceeds seventy two (72) square feet, the excess area shall be included in the on-premises, ground sign area calculations for the parcel;

(3) Flagpoles shall not exceed forty (40) feet in height; and

(4) Wall-mounted flags, emblems, insignias or logos shall be limited to one per facade and shall not exceed forty (40) feet in area.

(d) **Disabled Parking Space.** Signs not exceeding two (2) square feet in area, designating spaces reserved for disabled individuals.

(e) **Historical, Cultural, and Natural Site Signs.** A sign erected by a governmental agency, which exclusively denotes a recognized historical, cultural, or natural site, is permitted. This sign shall not exceed three (3) square feet unless otherwise provided by state or federal law.

(f) **Private Drive Signs.** On-premises private drive signs are limited to one per driveway entrance, not exceeding two (2) square feet in area, with language limited to the words "private drive" and the addresses of any residences using the private driveway.

(g) **Public Signs.** Signs erected by government agencies or utilities, including traffic, utility, safety, railroad crossings, and identification signs for public facilities and any signs erected by the Township under direction of the Board of Supervisors.

(h) **Security and Warning Signs.** On-premises signs regulating the use of the premises, such as "no trespassing," "no hunting," and "no soliciting" signs that do not exceed:

(1) One (1) sign per frontage and two (2) square feet in area in residential areas; and

(2) One (1) sign per frontage and five (5) square feet in area in agricultural, commercial, and industrial zones.

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- (i) Temporary Signs Not Requiring a Permit.
 - (1) Real Estate Signs. Signs, which advertise sale, rental, or lease of the premises on the parcel, which said signs are temporarily placed. Display of these signs shall be limited to one (1) per street frontage per property.
 - (a) Residential Districts. The maximum size shall be six (6) square feet per side except the following:
 - (1) Signs for new subdivision, condominium, or other residential developments may exceed six (6) square feet with Plan Commission approval. In no case shall such sign exceed thirty-two (32) square feet per side.
 - (b) All other Districts. The maximum size shall be as follows:
 - (1) Signs located on parcels adjoining streets or highways where the posted speed limit is less than fifty-five (55) miles per hour shall not exceed thirty-two (32) square feet per side.
 - (2) Signs located on parcels adjoining streets or highways where the posted speed limit is equal to or greater than fifty-five (55) miles per hour shall not exceed sixty-four (64) square feet per side.
 - (2) Political Campaign Signs. Political campaign signs are subject to the following requirements:
 - (a) The display of any political signs shall be limited to the “election campaign period”, which is the period beginning on the first day of circulation of nomination papers by candidates, or the first day on which candidates would circulate nomination papers were papers to be required, and ending on the day of the election, as defined by Wis. Stats. 12.04 (1)(a).
 - (b) The sign area of political campaign signs displayed in commercial or industrial zoning districts shall not exceed thirty two (32) square feet. The sign area of such sign displayed in residential or agricultural zoning districts shall not exceed six (6) square feet. In any zoning district, such signs shall be freestanding and shall not exceed six (6) feet in height.
 - (c) Political campaign signs shall not be displayed within one hundred feet of any Town-owned buildings (Wis. Statute 12.035), or displayed on properties or structures that are owned, operated, or maintained by any public agency, or on any Town-owned pole or traffic control devices, or on any pole, post, or appurtenance owned or operated by a utility. Political campaign signs shall not be located in any public right-of-way.
 - (d) The candidate, entity, or property owner responsible for the erection or distribution of any such signs shall be required to remove them within five (5) days after the election to which they refer.
 - (e) The Municipal Clerk, election inspector, Police Chief, or their designee, are authorized to remove any signs in violation of this section.
 - (3) Garage or Yard Sale Signs. Signs advertising garage sales or yard sales are permitted, provided that no sign shall exceed four (4) square feet in area and is not erected more than four (4) days prior to the event. One (1) yard sale sign shall be allowed on premises. All signs shall be removed one (1) day after the close of the garage or yard sale.
 - (4) Construction Signs. Construction signs announcing the new building or projects, or advertising the company doing the work can be displayed throughout the duration of the work and shall be removed after the work has been completed.
 - (5) Window Graphics. Temporary window graphics may not exceed forty (40) percent of the window area that does not contain permanent window graphics.
- (7) **PROHIBITED SIGNS.** The following signs are expressly prohibited, unless otherwise stated in these regulations.
 - (a) Absence of Permit. Any non-exempt sign for which a permit has not been issued.
 - (b) Animated or Moving Signs. A sign or other display with either kinetic or illusionary motion powered by manual, mechanical, electrical, or other means, including but not limited to flags having commercial messages, and all pennants, banners, streamers, propellers, and discs, as well as flashing signs, signs with illuminated elements that are used to simulate the impression of motion, and searchlights.

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- (c) Billboards and Off-Premises Signs. See Section 29.07 (10).
- (d) Flashing and Message Signs. Any signs that include lights or messages which change, flash, blink, or turn on and off intermittently except those approved by the Plan Commission. The Plan Commission may approve message signs with the following conditions:
 - (1) Such signs may be used only to advertise activities conducted on the premises or to present public services such as time, date, temperature or weather.
 - (2) Traveling message may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) light columns per second.
 - (3) No message may be displayed for less than one-half (1/2) of a second and no message may be repeated at interval of less than two (2) seconds.
 - (4) An electronic message sign shall not be located in a Residential District.
- (e) Glaring Signs. Signs with light sources or which reflect brightness in a matter which constitutes a hazard or nuisance. This includes but is not limited to signs with bare florescent bulbs, blinking, flashing or other bare bulb signs, or strobe lights, fluorescent text, graphics or background, as well as holographic signs. No sign lamp may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. Signs found to be brighter than necessary for adequate visibility, as determined by the Plan Commission at a public hearing, shall be adjusted by the person owning or controlling the sign.
- (f) Obstructive Signs. A sign or other advertising devise erected or maintained at any road intersection in a matter as to obstruct free and clear vision of the intersection.
- (g) Inflatable Signs and Other Objects. Signs and other objects which are inflated, including, but not limited to, balloons. One bouquet of balloons shall be allowed on a premises that sells balloons. Balloons shall also be permitted in temporary situations or on special occasions at a residence.
- (h) Posters and Handbills. Any signs affixed to any structures, trees or other natural vegetation, rocks, or poles.
- (i) Roof Signs. Signs attached to, painted onto, or supported by the roof of a building.
- (j) Simulated Traffic Signs and Obstructions. Any signs which may be confused with, or obstruct the view of, any authorized traffic sign or signal, obstruct the sight-distance triangle at any road intersection or extend into the public right-of-way.
- (k) Strings of Light. Any devices including lights that outline property lines, sales areas or any portion of a structure and are intended to advertise or draw attention to a business or commercial activity, except as follows:
 - (1) Lights used temporarily as holiday decorations.
 - (2) Lights or other devices used on a temporary basis on parcels on which carnivals, fairs or other similar temporary activities are held.
- (l) Mobile Signs.
 - (1) Any portable "A" frame or similar portable sign is prohibited except on a temporary basis not to exceed forty eight (48) consecutive hours not more than two times a year.
 - (2) Any sign displayed on a parked trailer or other vehicle where the primary purpose of the vehicle is to advertise a product, service business, or other activity. This regulation shall permit the use of business logos, identification or advertising on vehicles primarily and actively used for business purposes.
- (m) Multiple Signs. Multiple signs, logos, or insignia on a canopy or canopies, attached to a building or other structure, that exceed the maximum signable area for the premises.
- (n) Signs Adversely Affecting Safety. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, driveway, or fire escape or to prevent free access from one part of the roof to any other part. No sign shall be attached to a standpipe or fire escape. Open flames used to attract public attention to a place of business or to an advertising sign shall not be permitted.
- (o) Sign Emissions. No sign which emits smoke, visible vapors, particles, sound or odor shall be permitted.
- (p) Mirrors. No mirror device shall be used as part of a sign.

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- (8) General Requirements. The following limitations and obligations shall apply to all signs.
- (a) Sign Review. The Department of Community Development shall review all applications for new or altered signs, excluding exempt signs, within the Town. Signs in Business Park District (B-4) or Planned Commercial Business District (B-5) shall make an application to and will be reviewed by the Town of Menasha Planning Commission.
 - (b) Sign Permit. No person shall locate, erect, move, reconstruct, or structurally alter a sign, except those permitted under Section 29.07(5), Exempt Signs, without first obtaining a permit from the Department of Community Development and paying required fees, and without meeting all the structural requirements of local and state building codes.
 - (c) Public Property. No portion of a privately-owned sign, or its supporting structures, such as poles or cables, shall be placed on, or within the air space above, publicly owned property, a public right-of-way (such as a street, sidewalk, or waterway), or a proposed public right-of-way unless approved by the Town Board.
 - (d) Destruction of Vegetation. Cutting or killing vegetation growing on public rights-of-way (or below the ordinary high water mark of navigable streams) to enhance visibility of a sign is prohibited.
 - (e) Natural Areas. Signs in wetlands and areas zoned "Conservancy," except Governmental and Warning signs, are prohibited.
 - (f) Proximity to Electrical Conductors. Signs and all supporting structures shall be no closer to electrical utilities than is permitted by applicable codes. No sign, including cables and supports, shall, in any event, be within six (6) feet of any electrical conductor, electrical light pole, electric street lamp, traffic light, or other public utility pole.
 - (g) Responsibility for Compliance. The owner of a parcel on which a sign is placed and the person maintaining the sign are each fully responsible for the condition and the maintenance of the sign, and the area around the sign.
 - (h) Permanent Sign Requirements.
 - (1) Materials. A sign attached to any building shall be attached by corrosion-resistant metal attachments (bolts, anchors, or cables) to insure permanent and safe construction, and shall be maintained free from rust or other defects.
- (2) Wooden Standards and Posts. The construction of ground signs and sign boards may use wooden members when they are secure and erected upon standards and posts at least four (4) inches by four (4) inches square. Wooden members must be embedded in concrete or approved soil cement mixture of at least four (4) feet below the natural surface of the ground. The required depth of embedment may vary depending upon sign area, overall height above grade, soil conditions and the number of supporting uprights, but shall be a minimum four (4) feet in depth. When posts and anchors constructed from wood rest upon or are in the ground, they must be pressure-treated.
- (3) Electric Signs. All electric signs shall be grounded and shall comply with the National and State Electrical Codes. All electrical connections, wiring to, or within the sign are subject to the provisions of the, Town Building Code, the Wisconsin Administrative Code and the National Electric Code.
- (4) Attachments.
 - (a) No signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe, and no sign or any part of any sign or any anchor, brace, or guide rod shall be erected, relocated, put up, or maintained so as to hinder or prevent ingress or egress from public or private driveways, parking lots, or fire escapes, or through a door, doorway, or window or so as to hinder or prevent pedestrian traffic on a sidewalk or so as to hinder or prevent the raising or placing of ladders against a building by the fire department as necessity therefore may require. No sign shall be placed so as to obstruct or interfere with traffic visibility nor be lighted in such a way as to cause glare or impair driver visibility upon public right-of-ways.
 - (b) No advertising or regulatory sign or its structure shall be attached in any way to a tree or landscape feature.
- (5) Lighting. Lights may be permitted on signs provided that any reflective shields concentrate illumination on the sign so as to prevent glare upon streets or adjacent properties.

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- (i) Maintenance. Signs allowed by this Section shall be maintained in a safe, presentable, and good condition at all times. This includes replacement of defective parts, painting, repainting, cleaning, and other acts required for maintenance of the sign and surrounding premises.
 - (1) Dilapidated and Unmaintained Signs. Dilapidated, unmaintained, and/or unsafe signs, as determined by the Town, shall be subject to the razing provisions of Section 66.05, Wis. Stats.
 - (2) Abandoned Signs. The owner or lessee of a property shall remove an abandoned sign within sixty (60) days of abandonment. If the sign owner, lessee, or owner of the premises fails to remove such sign, the Community Development Director may contract for removal of such sign(s) and assess all costs associated with such removal as a special tax against the property on which the sign(s) were located, such tax to be collected in the same manner as property taxes are collected in the Town of Menasha.
- (9) **ON-PREMISES SIGNS.** On-premises signs include signs, graphics, and displays for commercial, industrial, institutional, service or entertainment purposes, products, uses, or services conducted, sold or offered on the same premises where the sign is located.
 - (a) Ground Signs. A premises may display one (1) ground graphic on each street or highway on which it has frontage in commercial or industrial zoning districts. Size, setback and height regulations are listed under the zoning districts where they apply.
 - (1) Local Service (B-1) and Community Business Districts (B-2).
 - (a) Size Regulations.
 - (1) For parcels having up to one hundred (100) linear feet of frontage on any public or private street, one (1) sign not exceeding one (1) square foot in area for every two (2) linear feet of lot frontage, up to a maximum of twenty five (25) square feet in area.
 - (2) For parcels having more than one hundred (100) linear feet of frontage on any private or public street, one (1) sign not exceeding fifty (50) square feet in area.
 - (b) Sign Location. All freestanding signs or displays shall be erected at least ten (10) feet from any property line or right-of-way, and shall be located outside all clear site triangles or a minimum of ten (10) feet from the edge of the travelway, whichever is the greater distance.
 - (c) Height Regulations. No portion of any freestanding on-premises sign or display shall be more than twenty (20) feet above the highest elevation of the natural grade immediately adjacent to the sign.
- (2) Institutional and Recreational Park (P-1), General Business (B-3), Business Park (B-4), Planned Commercial Business (B-5), Light Industrial and Office (M-1), and Heavy Industrial (M-2).
 - (a) Size Regulations. All faces combined, per side, for freestanding signs or displays shall not exceed one hundred (100) square feet. Signs shall not have more than two (2) sides. Size may be increased to one hundred fifty (150) square feet, per side, all faces combined, for a corner lot if the owner agrees to limit the number of signs to one (1).
 - (b) Sign Location. All freestanding signs or displays shall be erected at least ten (10) feet from any property line or right-of-way, and shall be located outside all clear site triangles or a minimum of ten (10) feet from the edge of the travelway, whichever is the greater distance.
 - (c) Height Regulations. No portion of any freestanding on-premises sign or display shall be more than thirty five (35) feet above the highest elevation of the natural grade immediately adjacent to the sign.
 - (d) Landscaping. A landscaped area located around the base of the graphic equal to one half (1/2) of a square foot for each square foot of ground graphic area is required for all ground graphics. The landscaped area shall contain living landscape material consisting of shrubs and/or perennial ground cover plants placed throughout the required landscape area having a spacing of not greater than four (4) feet on center.

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- (b) Wall Signs. In commercial or industrial zoning districts, a premises, and each occupant of a multi-use building, may display wall signs on walls adjacent to each street or highway on which it has frontage.
 - (1) Sign Structure Graphic Display Area (Signable Area). The person or business displaying wall sign shall have a total signable area on each façade of the building that has frontage on a street or highway. The total signable area is dependent upon the linear foot measurement of the façade. Signable Area Requirements are as follows:
 - (a) Signable Area Allowed. The total signable area a premises can display shall not exceed one (1) square foot for each linear foot of façade or one hundred (100) square feet, whichever is smaller, on which the graphics will be located.
 - (b) How Displayed. The sign structure graphic display area may be displayed as one (1) wall graphic or divided among two (2) or more wall graphics.
 - (c) Additional Limitations. Wall graphics may be painted on, attached to, or pinned away from the wall, but must not project from the wall by more than six (6) inches and must not interrupt architectural details.
 - (2) Gateway Square Development. All signs proposed within the Gateway Square development shall meet the requirements of the Gateway Square Sign Standards, available at the Department of Community Development.
- (c) Special Street Graphics.
 - (1) Projecting Graphics.
 - (a) Where Permitted. Each occupant of a multi-use building may display one projecting graphic on each street or highway frontage.
 - (b) Signable Area. Any signable area selected for display as a projecting graphic shall not exceed twelve (12) square feet and shall be subtracted from the total signable area allocated for wall graphics (Section 29.07 (9)(b)(1)(a)) to the façade to which the projecting graphic will be attached.
 - (2) Awnings.
 - (a) Where Permitted. A premises, and each occupant of a shopping center or multi-use building may display an awning on each street or highway frontage in the Local Service (B-1), Community Business (B-2), General Business (B-3), Business Park (B-4), and Planned Commercial Business (B-5) Zoning Districts.
 - (b) Signable Area. A street graphic may be displayed on one (1) signable area selected for display on an awning. It shall not exceed forty (40) percent of the area of the principal face of the awning and shall be subtracted from the signable area allocated for wall graphics (Section 29.07 (9)(b)(1)(a)) permitted for each facade.
 - (c) Height and Width. Awnings must clear sidewalks by at least eight (8) feet and may extend to within one (1) foot of the vertical plane formed by the curb or the right-of-way line.
 - (d) Lighting. Awnings may be non-illuminated or externally illuminated only by down-directed and shielded fixtures of white light.
 - (3) Window Graphics. A premises, or an occupant of a shopping center or multi-use building, may display permanent window graphics not to exceed forty (40) percent of the window area of the façade of a building.
- (c) Height, Width, and Projection. Projecting graphics must clear sidewalks by at least ten (10) feet and may project no more than four (4) feet from a building or one-third (1/3) of the width of the sidewalk, whichever is less. Projecting graphics must be pinned away from the wall at least six (6) inches and must project from the wall at an angle of ninety (90) degrees. Angular projection from the corner of a building is prohibited.

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(d) Sign Permit.

(1) Sign Permit Procedure:

(a) Concept Review.

- (1) Applicant submits a completed application to the Department of Community Development.
- (2) The Department of Community Development staff reviews the application and plans for municipal code compliance and either approves, approves with modifications, or rejects the application.

(b) Additional Procedural Requirements for Permanent Signs in Business Park District (B-4) or Planned Commercial Business District (B-5):

- (1) All signs proposed within the B-4 or B-5 zoning districts required Plan Commission approval.
- (2) Applicant must submit a completed application and pay applicable fees to the Department of Community Development at least fifteen (15) days prior to the Plan Commission meeting at which action is desired.
- (3) The Department of Community Development staff reviews the application and plans for municipal code compliance.
- (4) The plans are presented to the Planning Commission and are approved, approved with modifications, or rejected.

(c) Sign Permit.

- (1) Upon conditional approval of a sign application, applicant must illustrate compliance all the requirements of this Section and other Town Ordinances before permit approval is granted.
- (2) Upon approval of a sign application by and payment of all applicable fees, a permit will be issued by the Department of Community Development.

(2) Required Materials.

(a) Application. Every applicant for a sign permit shall complete a written application form, with supplementary attachments, if necessary, containing the following information:

- (1) Site location;
- (2) Owner's name;
- (3) Building occupancy; and
- (4) Site zoning.

(b) Fees. The sign application and permit fee as set forth in Appendix B Fee Schedule of the Municipal Code, reference this code section, shall be paid at the time of application submittal.

(c) Elevation. The Elevation shall include the following:

- (1) Dimensions of sign face;
- (2) Image of sign (i.e. lettering, logos, and graphics) indicating size, style, of lettering, material, color, and layout design; and
- (3) Distance between grade and the bottom of sign and overall height of sign (freestanding signs only).

(d) Site Plan. The Site Plan shall include the following:

- (1) Property line;
- (2) Location of sign;
- (3) Distance of sign to property line; and
- (4) Driveway accessways.

(3) Issuance of Permit. Once the preliminary application has been submitted, approval has been granted by the Department of Community Development and/or the Planning Commission, and the final application has been submitted with all applicable fees paid, the permit can be issued.

(4) Revocation. All rights and privileges acquired under this section or any amendment thereto are revocable for cause at any time by the Department of Community Development. If the work authorized under permit has not been completed within one year after date of issuance, the said permit shall become null and void. See Chapter 13.26(8).

(10) OFF-PREMISES SIGNS.

(a) Regulations.

- (1) It is hereby determined that the number of billboard/off-premises signs existing in the Town of Menasha is excessive and distracting to motorists and pedestrians, creates a traffic hazard, and mars the appearance of the Town.
- (2) Billboard/off-premises signs are hereby prohibited, with the exception of (3)(a) and (3)(b), and (4) in the Town and no billboard/off-premises sign may be constructed, erected, or placed upon any premises, public or private, within the Town after January 25, 1993. *[Amended 11/24/08]*
- (3) Billboard/off-premises signs existing prior to January 25, 1993 may be legal nonconforming signs and may be permitted to be continued and maintained in their current location/condition provided such signs also meet the following requirements:
 - (a) The sign(s) was (were) covered by a sign permit or a permit for construction/erection of the sign(s) was (were) issued prior to the date of the adoption of this section, if one was required.
 - (b) If no sign permit was required for the sign(s) in question and the sign(s) was (were) in all respects in compliance with applicable laws/Sections on the date such sign was constructed/installed.
- (4) Off-premise signs are permitted on contiguous properties within a planned commercial area zoned B-4 or B-5, subject to the following: *[Added 12/15/08]*
 - (a) The applicant for the off-premise sign provides the Town of Menasha with an agreement with the contiguous property owner stating the conditions for allowing the off-premise sign location on the contiguous property.
 - (b) An off-premise sign on a contiguous property is located in an easement that provides sufficient area to meet setback requirements as required in the B-4 or B-5 Districts.
 - (c) The size of the off-premise sign shall meet the ground sign regulations in the B-4 or B-5 Districts.

- (d) Only one off-premises sign is allowed on a contiguous property.
 - (e) Only uses located on the contiguous property shall be allowed to display on the off-premise sign.
 - (f) An off-premise sign shall be no closer than 150 feet from an existing or future location of an on-premise sign.
 - (g) All off-premise signs are subject to review and approval by the Town of Menasha Planning Commission.
- (b) Church Directional Sign Program. A church directional sign is a standardized sign placed by the Town on Town-owned public property at the intersection of a major thoroughfare and a minor street on which said church is located. In order to qualify for the program the church must not be visible from the proposed intersection.
- (1) Churches, which otherwise are complying with the sign Section requirements, may request a church directional sign by paying an application fee and an annual charge for the maintenance and upkeep of said sign as set by resolution.
 - (2) Such directional sign(s) shall be constructed by the Town and shall be of the type determined by the Town. Such sign(s) shall replace the normal directional sign(s).
 - (3) No such device shall be erected without the approval of the Town Board following recommendation from the Plan Commission.
 - (4) Church directional signs are provided by the Town for the convenience of the public and are subject to removal at any time.
- (c) Business Directional Signs. A business directional sign is a standardized sign placed by the Town at the intersection of a major thoroughfare indicating the directions to a business with access located on the minor street. A business may qualify for a business directional sign if said business is not visible upon approaching the intersection. A business directional sign shall be located on public property.
- (1) Businesses, which otherwise are complying with the sign Section requirements, may request that their sign be placed on the business directional sign by paying an application fee and an annual charge for the maintenance and upkeep of said sign as set by resolution.

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- (2) Such directional sign(s) shall be constructed by the Town and shall be of the type determined by the Town. Such sign(s) shall replace the normal directional sign(s).
 - (3) No such device shall be erected without the approval of the Town Board following recommendation from the Planning Commission.
 - (4) Business directional signs are provided by the Town for the convenience of the public and are subject to removal at any time.
- (d) Off-Premises Directional Sign Requirements.
- (1) Off-premises directional signs shall allow for the identification of multiple businesses or industries.
 - (2) Off-premises directional signs shall be limited to one (1) sign per business or industrial area.
 - (3) These areas shall be determined by the Town Board if necessary.
 - (4) All off-premises directional signs shall be reviewed by the Town Planning Commission and a recommendation of approval or denial shall be made to the Town Board based on the above criteria and other information provided by the applicant, staff and others at a regular Town Planning Commission Meeting.
 - (5) The Town Board shall approve or deny the recommendation of the Planning Commission based on compliance with the above criteria and any other information deemed appropriate to the off-premises sign, and furthermore reserves the right to approve or deny the request for an off-premises sign on a case-by-case basis.
 - (6) A billboard/off-premises sign which has been designated as legal nonconforming may retain such designation so long as the following conditions are complied with:
 - (a) No structural modification of a legal nonconforming sign is permitted. Structural modification shall not include changing of the sign copy or normal maintenance such as cleaning, painting, or scraping of the sign or sign structure.
 - (b) The sign shall not be relocated.
 - (c) The sign shall not be replaced.
 - (7) A legal nonconforming billboard/off-premises sign or sign structure which, by any means, is destroyed or damaged may be restored only after the owner has shown that the damage to such sign did not exceed fifty (50) percent of the assessed value of such sign existing at the time it became legal nonconforming. If such sign or sign structure is destroyed or damaged to an extent exceeding fifty (50) percent of the aforesaid value, it shall be removed within sixty (60) days of the date the damage occurred and shall not be reconstructed or replaced in the Town of Menasha. If restoration of a sign damaged to less than fifty (50) percent of the aforesaid value is not completed within six (6) months of the date damage occurred, such sign shall be removed and shall not be reconstructed or replaced in the Town of Menasha. "Removal" as referred to in this ordinance shall include both the sign and sign structure regardless of which incurred the damage. Restoration of a damaged sign shall first require issuance of a sign permit.
 - (8) At such time as the owner of any building or lot, on which legal nonconforming billboard/off-premises sign is located, requests Planning Commission/Town Board approval for any change to the use, zoning, building or lot upon which premises said sign is located, the Planning Commission/Town Board may require that such legal nonconforming sign be removed as a condition of approval.
 - (9) Any sign which does not wholly comply with the provisions of this ordinance and which is not classified as legal nonconforming shall be ordered removed. If the sign owner, lessee, or owner of the premises on which such sign is located fails to remove such sign, the Community Development Director may contract for removal of such sign(s) and assess all costs associated with such removal as a special tax against the property on which the sign(s) was (were) located, such tax to be collected in the same manner as property taxes are collected in the Town of Menasha.

(11) **TEMPORARY SIGNS.** In addition to the permanent signs allowed under this section, a premises, or an occupant of a multi-use building may display temporary signs for a limited period of time and for the purpose of announcing or promoting a new building, development, subdivision, grand opening, or special event.

(a) General Guidelines.

- (1) Number. One (1) wall-mounted sign per street frontage. A maximum of two (2) temporary sign permits will be issued per calendar year for a time period up to thirty (30) days.
- (2) Area. Temporary signs shall not exceed thirty two (32) square feet in the Business Park (B-4) and Planned Commercial Business (B-5) Zoning Districts, and fifty (50) square feet in all other zoning districts.

(b) Temporary Sign Permit. Temporary signs may be erected in all commercial or industrial districts only after obtaining a temporary sign permit, which shall cite the length of time the sign may be displayed.

(1) Temporary Sign Permit Procedure:

- (a) Applicant submits a completed application to the Department of Community Development.
- (b) The Department of Community Development staff reviews the application and plans for municipal code compliance and approves, approves with modifications, or rejects the Sign Application.
- (c) Upon approval or conditional approval of a Sign Permit by the Department of Community Development, a final Sign Permit shall be submitted with all required materials that meets all the requirements of this Section and other Town Ordinances.

(2) Required Materials.

- (a) Application. Every applicant for a sign permit shall complete a written application form, with supplementary attachments, if necessary, containing the following information:
 - (1) Site location;
 - (2) Owner's name;
 - (3) Building occupancy;
 - (4) Site zoning; and
 - (5) Proposed dates of display (time period).

(b) Fees.

- (1) The temporary sign application and permit fee as set forth in Appendix B Fee Schedule of the Municipal Code, reference this code section, shall be paid at the time of application submittal.
- (2) Deposit. There is a deposit for temporary signs as set forth in Appendix B Fee Schedule of the Municipal Code, reference this code section, which will be refunded upon applicant's certification that sign(s) has (have) been removed within the time period specified on the permit.

(c) Elevation. The Elevation shall include the following:

- (1) Dimensions of sign face; and
- (2) Image of sign (i.e. lettering, logos, and graphics) indicating size, style, of lettering, material, color, and layout design.

(3) Issuance of Permit. Once the application has been submitted and all applicable fees paid, approval has been granted by the Department of Community Development, the permit can be issued.

(4) Revocation. All rights and privileges acquired under this section or any amendment thereto are revocable for cause at any time by the Department of Community Development. If the work authorized under permit has not been completed within one year after date of issuance, the said permit shall become null and void. See Chapter 13.26(8).

29.08 OFFICIAL STREET, ROAD, HIGHWAY, PARK, PARKWAY, WATERWAY, RIGHT-OF-WAY, ETC., MAP

1) **Intent.** It is the intent of the Town Board to establish an Official Map for the purpose of serving and promoting the public health, safety, convenience, economy, orderliness and general welfare of the Town; to further the orderly layout and use of land; to stabilize the location of real property boundary lines; to ensure proper legal descriptions and proper monumenting of land; to facilitate adequate provision for transportation, parks, playgrounds, storm water drainage, and waterways; and to facilitate the further subdivision of larger tracts into smaller parcels of land.

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- 2) **Authority.** This Section is enacted under the authority of Chapters 60, 62, and 236 of the Wisconsin State Statutes and as amended.
- 3) **Official Map.** The Official Map shall show the location and extent of all platted and existing streets, highways, parkways, parks and playgrounds, waterways, and railroad rights-of-way within the corporate limits of the Town of Menasha as heretofore laid out, adopted, and established by law, and shall be deemed conclusive in respect to location and width. There is hereby established as the Official Map of the Town of Menasha, the Map which accompanies and is made a part of this Ordinance bearing the date of adoption. This map is hereby designated as the "Official Map of the Town of Menasha," and all notations, references and other information shown thereon shall be as much a part of this Ordinance as though the matters and information thereon were fully described herein.
- 4) **Changes and Additions.**
 - a) The Town Board may change or add to the Official Map so as to establish the exterior lines of; widen; narrow; extend; or close any platted, existing, proposed or planned streets, highways, parks, playgrounds, waterways, or railroad rights-of-way.
 - b) The Town Board shall refer any change or addition to the Official Map to the Town Plan Commission for review and recommendation thereon prior to adoption. The Plan Commission shall report their recommendation to the Town Board within sixty (60) days.
 - c) A Public Hearing of parties in interest and citizens before the Town Board shall be required before any changes or additions to the Official Map are effective. Notice of the Public Hearing shall be given as a Class 2 notice under Chapter 985. Changes and additions made by duly approved subdivision plats and Certified Survey Maps shall not require the public hearing if the change or additions do not affect any land outside the subdivision or certified survey map.
- 5) **Building Permits.** For the purpose of preserving the integrity of the Official Map, a building permit shall be required for any structure or part thereof that shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered. No permit shall hereafter be issued for any building in the bed of any existing or proposed street or highway shown on the Official Map. No permit for the erection of any building shall be issued unless a street or highway giving access to such proposed structure has been duly placed on this Map.
- 6) **Municipal Improvements.** No public sewer, water, or other municipal street utility or improvement shall be constructed in any street or highway within the corporate limits of the Town of Menasha until such street or highway has been placed on the Official Map.
- 7) **Appeals.** The Town Board shall have the power to review any administrative decision of the Building Inspector to deny a permit for the erection of a structure under this Ordinance and to grant relief from the requirements of this Ordinance under the provisions of Sections 62.23(6)(e)(f)(g) of the Wisconsin State Statutes.
- 8) **Certified Copy of the Map.** There shall be a certified copy of the Official Map described in Section 29.08 3). The certified copy shall be kept in the Office of the Town Clerk and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the Official Map described in and accompanying this Ordinance and shall show the date of adoption of this Ordinance and shall be signed by the Town Chairman and countersigned by the Town Clerk. Thereafter no change or addition to such Official Map shall become effective until it shall have been indicated by the appropriate convention on the aforesaid certified copy of the Official Map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Town Chairman and countersigned by the Town Clerk.
- 9) **Ordinance to be filed with Register of Deeds.** The Town Clerk shall be responsible immediately upon adoption of the Official Map or any amendments thereto for recording a true copy of the Ordinance or amendment with the Register of Deeds of the County of Winnebago, Wisconsin.
- 10) **Enforcement.** It shall be the duty of the Department of Community Development and the Police Department to enforce the provisions of this Section.
- 11) **Penalties.** Any person, firm, or corporation who fails to comply with the provisions of this Section shall, upon conviction thereof, pay forfeiture as set forth in Appendix C Fines and Penalties, reference this code section, plus the cost of prosecution for each violation and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding thirty (30) days. Each violation and each day a violation exists or continues shall constitute a separate offence.

29.09 COMMERCIAL VEHICLE PARKING

1) **Definitions.**

- a) **Commercial Vehicles.** All trucks, buses, commercial trailers or other vehicular equipment of a commercial or industrial nature. *[Amended 11/24/08]*

2) **Commercial Vehicle Parking Prohibited in Residentially Zoned Districts.** The parking of any commercial vehicle shall be prohibited on any portion of any residentially zoned district. Specifically, there shall be no parking of commercial vehicles in any residentially zoned district in the Town of Menasha.

3) **Exemptions.**

- a) Temporary parking of commercial vehicles shall be allowed in residentially zoned districts where such parking of commercial vehicles is for the purpose of loading or unloading furniture, appliances and household belongings to or from any residence. However, the parking of such commercial vehicle as described in this paragraph shall be limited to three consecutive days.
- b) Temporary parking of commercial vehicles shall be allowed in a residentially zoned district for purposes of construction of any residence; however, such temporary parking shall be limited to three consecutive days.
- c) Temporary parking of buses (no more than fifteen minutes) shall be allowed for the purpose of picking up and dropping, off passengers within the residentially zoned districts.
- d) Parking of School Buses as defined in 340.01(56) shall be permitted within the driveway of the resident driver under the following rules:
 - 1) The vehicle may not overlap into the right-of-way.
 - 2) The vehicle must be parked completely on the driveway pavement surface.
 - 3) Parking is permitted only between the hours of 8:00 a.m. and 8:00 p.m.
 - 4) Parking is limited to the driveway only.
- e) Panel or pickup trucks up to, and including one ton manufacturer's rating. *[Added 11/24/08]*
- f) Agricultural equipment shall be permitted where accessory to a permitted agricultural use. *[Added 11/24/08]*

- 4) **Penalties.** Any person, firm, corporation, business or entity who fails to comply with any provisions of this ordinance shall, upon conviction thereof, forfeit an amount set forth in Appendix C Fines and Penalties, reference this code section, plus the cost or prosecution for each violation; and, in default of payment of such forfeiture and cost, shall be imprisoned in the county jail until payment thereof, but not exceeding 30 days. Each day of violation shall represent a separate violation of the ordinance as described herein.

29.10 WIND ENERGY SYSTEMS

[Created 2/26/07]

- 1) **Authority.** This Section is adopted pursuant to authority granted by Wis. Statute 60.61, 60.22(3) and 66.0401.

2) **Purpose.** The purpose of this Section is to:

- a) Oversee the permitting of wind energy systems; and
- b) Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system (per Wis. Stat. §. 66.0401).

3) **Definitions.** In this Section:

- a) *Director.* Means the Town of Menasha Community Development Director or designee.
- b) *Large Wind Energy System.* Means a wind energy system that:
 - 1) is used to generate electricity;
 - 2) has a nameplate capacity over 100 kilowatts; or
 - 3) has a total height over 170 feet; or
 - 4) has a rotor diameter of more than 50 feet.
- c) *Meteorological Tower (Met Tower).* Defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- d) *Owner.* Means the individual or entity that intends to own and operate the wind energy system in accordance with this Section.
- e) *Planning Commission.* Means the Town of Menasha Planning Commission.

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- f) *Property Owner.* Means the individual or entity that owns the land on which a wind energy system is intended to be located.
 - g) *Rotor Diameter.* Means the cross sectional dimension of the circle swept by the rotating blades.
 - h) *Small Wind Energy System.* Means a wind energy system that:
 - 1) is primarily used to generate electricity for use by its owner;
 - 2) has a nameplate capacity of 100 kilowatts or less; and
 - 3) has a total height of 170 feet or less; and
 - 4) has a rotor diameter of 50 feet or less.
 - i) *Total height.* Means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
 - j) *Tower.* Means the monopole, freestanding, or guyed structure that supports a wind generator.
 - k) *Town Board.* Means the Town of Menasha Board of Supervisors.
 - l) *Wind Energy System.* Means equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by Wis. Statute 66.0403(1)(m)). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.
 - m) *Wind Generator.* Means blades and associated mechanical and electrical conversion components mounted on top of the tower.
- 4) **General Provisions.** Small and large wind energy systems shall meet the following requirements:
- a) *Access.* All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. A tower shall not have step bolts or a ladder within eight (8) feet of the ground that is readily accessible to the public.
 - b) *Electrical Wires.* All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
 - c) *Lighting.* A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration. Required lighting shall comply with FAA minimum requirements and, whenever possible, be at the lowest intensity allowed using red lights at night. If more than one (1) lighting alternative is available, the alternative that causes the least visual disturbance shall be used.
- d) *Appearance, Color, and Finish.* The exterior surface of any visible component of a wind energy system shall be of a non-reflective, neutral color. The design of the building or related structures of the wind energy system site shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that are compatible with the surrounding area or natural environment.
 - e) *Signs.* No sign, other than a warning sign or installer, owner, or manufacturer identification sign, may be placed on any component of a wind energy system if the sign is visible from an adjacent property, and any such signs shall also comply with other sign ordinances of the Town and the Winnebago County Town/County Zoning Ordinance.
 - f) *Code Compliance.* A wind energy System including tower shall comply with all applicable state construction and electrical codes, and the National Electrical Code. The Owner shall provide certification from a state licensed inspector showing that the wind energy system complies with all applicable codes before placing the wind energy system into operation.
 - g) *Signal Interference.* The owner of a wind energy system must filter, ground, and shield a tower and take any other reasonable steps necessary to prevent, eliminate, or mitigate any interference with the transmission and reception of electromagnetic communications, such as microwave, radio, telephone, or television signals.
 - h) *Utility notification and interconnection.* Wind energy systems that connect to the electric utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities."
 - i) *Ice.* The wind energy systems shall be operated in such a manner as to prevent the accumulation of ice and ice throws on to adjacent property.
- 5) **Standards – Small Wind Energy System.** A small wind energy system shall be a permitted use in all zoning districts subject to the following requirements:
- a) *General Provisions.* All requirements of Section 29.10 4), General Provisions, shall be met.
 - b) *Setbacks.* A wind tower for a small wind energy system with a total height of seventy-five (75) feet or less shall meet the setback requirements for an accessory structure as stated in the

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Winnebago County Town/County Zoning Ordinance. A wind tower for a small wind energy system with a total height over seventy-five (75) feet shall be set back a distance equal to its total height from:

- 1) any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;
 - 2) any overhead utility lines, unless written permission is granted by the affected utility; and
 - 3) all property lines, unless written permission is granted from the affected land owner or neighbor.
- c) *Noise*. The noise generated by the operation of a small wind energy system may not exceed 5dB above the ambient noise level as measured at any point on the property adjacent to the parcel on which the small wind energy system is located. The noise level generated by the operation of a small wind energy system will be determined during the investigation of a noise complaint by comparing the sound level measured when the wind generator blades are rotating to the sound level measured when the wind generator blades are stopped.
- 1) It is understood that small wind energy systems may occasionally exceed these limits during power outages. The above regulation shall not apply to small wind energy systems during power outages or storm occurrences.
- d) *Blade Clearance*. The vertical distance from ground level to the tip of a wind generator blade when the blade is at its lowest point shall be at least thirty (30) feet.
- 6) **Standards – Met Towers**. Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.
- 7) **Standards – Large Wind Energy Systems**. A large wind energy system shall require Plan Commission and Town Board approval in all zoning districts subject to the following requirements:
- a) *Approval Procedure*. The Plan Commission and Town Board approval procedure shall be as follows:
 - 1) The application shall, at a minimum, include the information listed in Section 29.10 8) a) 1-8) (below) for Plan Commission and Town Board review.
 - 2) The applicant shall consult with Community Development staff prior to submitting an

application to review the application requirements and review process and to determine whether any optional submittals will be required.

- 3) An application and ten (10) copies of a Site Plan shall be submitted at least fifteen (15) days prior to the Plan Commission meeting at which action is desired.
 - 4) Town staff shall review the application and make a recommendation to the Plan Commission to approve, approve with conditions, defer, table, or deny with reason.
 - 5) A public hearing before the Plan Commission shall be held for Town residents and property owners within three hundred (300) feet of the proposed development will be notified by the Town.
 - 6) The Plan Commission shall meet in accordance with open meetings law and discuss and take action on the application. The Plan Commission, considering the recommendation from Community Development staff, shall make a recommendation to the Town Board to approve, approve with conditions, defer, table, deny with reason, or remove any applications from the agenda.
 - 7) The Town Board shall meet in accordance with open meetings law and discuss and take action on the application. The Town Board, considering the recommendation from the Plan Commission and Town Staff, shall approve, approve with conditions, defer, table, deny with reason, or remove any application from the agenda.
 - 8) In accordance with 66.0401 Wis. Statutes, approvals shall not be denied or restricted unless the denial or restriction satisfies one of the following conditions:
 - (a) Serve or protect the public health or safety.
 - (b) Does not significantly increase the cost of the system or significantly decrease its sufficiency.
 - (c) Allows for an alternative system of comparable cost and efficiency.
- b) *General Provisions*. All requirements of Section 29.10 4), General Provisions, shall be met.

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- c) *Setbacks.* A wind tower for a large wind energy system shall be set back a distance equal to 1.1 times its total height from:
 - 1) any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;
 - 2) any overhead utility lines, unless written permission is granted by the affected utility; and
 - 3) all property lines, unless written permission is granted from the affected land owner or neighbor.
 - d) *Blade Clearance.* The vertical distance from ground level to the tip of a wind generator blade when the blade is at its lowest point shall be at least seventy-five (75) feet.
 - e) *Road Repair.* Any road damage done by the owner, or one or more of its contractors or subcontractors, shall be repaired or reconstructed at the owner's expense as per Town of Menasha policy.
- 8) **Permit Requirements.**
- a) *Application.* All applications shall be made on forms provided by the Town and be accompanied by a fee as set forth in the Appendix B Fee Schedule, reference code section 29.03(3)(f)
 - 1) The applicant shall also provide copies of the Proof of a Certificate of Authority from the Public Service Commission of Wisconsin and the Public Service Commission of Wisconsin Environmental Assessment, if applicable.
 - 2) A description of the number and kind of wind energy system(s) to be installed.
 - 3) A statement from the applicant that all wind energy system(s) will be installed in compliance with manufacturer's specifications, and a copy of those manufacturer's specifications.
 - 4) A copy of the lease with the landowner if the applicant does not own the land for the proposed wind Energy Facility (s). A statement from the landowner of the leased site that he/she will abide by all applicable terms and conditions of the Wind Energy Siting Permit.
 - 5) A statement indicating what hazardous materials will be used and stored on the site, and, how those materials will be stored.
 - 6) A statement indicating how the Wind Energy Facility will be lit, if applicable.
 - b) *Site Plan Review.* The Owner shall submit a Site Plan which shall conform to all applicable provisions of Section 29.03 thru 29.05 at the time of application submittal for a wind energy system or met tower. The Site Plan shall also include the following:
 - 1) Property lines and physical dimensions of the property;
 - 2) Location, dimensions, and types of existing major structures on the property;
 - 3) Location of the proposed wind system tower;
 - 4) The right-of-way of any public road that is contiguous with the property;
 - 5) Any overhead utility lines;
 - 6) A note indicating the total kilowatts of the wind energy system;
 - 7) Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed); and
 - 8) Tower and Tower foundation drawings which have been approved by a registered professional engineer.
 - c) *Performance Bond.* A Bond, or Letter of Credit, shall be required in the amount to cover the cost returning the site to its original condition if it is deemed that the site has been abandoned.
 - d) *Building Permit.* A wind generator permit shall be required for the installation of a wind energy system or met tower and fees as set forth in Appendix B Fee Schedule, reference code Section 13.28(3). No building or construction permits shall be issued until the Director has reviewed and approved the Site Plan.
 - e) *Expiration.* A permit issued pursuant to this Section shall expire if:
 - 1) The wind energy system or met tower is not installed and functioning within twelve (12) months from the date the permit is issued; or
 - 2) The wind energy system or met tower is out of service or otherwise unused for a continuous twelve (12) month period.

9) **Permit Procedure.**

- a) An Owner shall submit an application to the Department of Community Development for a wind generator permit for a wind energy system or met tower. The application must be on a form approved by the Director and must be accompanied by two copies of the Site Plan identified in 29.08(b) above.
- b) The Director shall issue a permit or deny the application within thirty (30) days of the date on which the application is received, or five (5) days following approval by the Town Board under Section 7) a) 7), whichever is later.
- c) The Director shall issue a wind generator permit for a wind energy system if the application materials show that the proposed wind energy system meets the requirements of this Section.
- d) If the application is approved, the Director will return one (1) signed copy of the application with the permit and retain the other copy with the application.
- e) If the application is rejected, the Director will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may resubmit if the deficiencies specified by the Director are resolved.
- f) In accordance with 66.0401 Wis. Statutes, approvals shall not be denied or restricted unless the denial or restriction satisfies one of the following conditions:
 - 1) Serve or protect the public health or safety.
 - 2) Does not significantly increase the cost of the system or significantly decrease its sufficiency.
 - 3) Allows for an alternative system of comparable cost and efficiency.

10) **Abandonment.**

- a) A wind energy system or met tower that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Director may issue a Notice of Abandonment to the owner of a wind energy system 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. The Director shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the wind energy system or met tower has not been abandoned.

- b) If the wind energy system or met tower is determined to be abandoned, the owner of a wind energy system or met tower shall reclaim the site to its original condition at the Owner's sole expense within ninety (90) days of receipt of Notice of Abandonment. If the owner fails to reclaim the site to its original condition, the Director may remove, or cause to be removed, the wind energy system or met tower and/or restore the site to its original condition using the bond or letter of credit. Any cost incurred by or on behalf of the Town and not covered by the bond or letter of credit will become a lien on the property and may be collected in the same manner as property taxes, in addition to any other remedy available to the Town under law or in equity. In addition thereto, the title owner of the property and/or operator of the wind energy system shall be personally liable to the Town for any costs incurred by the Town for removal of the wind energy system and reclamation of the site. Going upon the property for removal and reclamation by or on behalf of the Town shall not be deemed a trespass. Any cost not covered by the bond or letter of credit will become a lien upon the property and may be collected in the same manner as property taxes.

11) **Appeals.** The applicant may appeal the Director's decision pursuant to Chapter 68 of the Wis. Statutes.

12) **Violations.** It is unlawful for any person to construct, install, or operate a wind energy system or met tower that is not in compliance with this Section or with any condition contained in a wind generator permit issued pursuant to this Section. Wind energy systems or met towers installed prior to the adoption of this Section are exempt.

13) **Administration and Enforcement.**

- a) This Section shall be administered by the Director or other official as designated.
- b) The Director may enter any property for which a permit has been issued under this Section to conduct an inspection to determine whether the conditions stated in the permit have been met.
- c) The Director may issue orders to abate any violation of this Section.
- d) The Director may issue a citation for any violation of this Section.
- e) The Director may refer any violation of this Section to legal counsel for enforcement.

14) **Penalties.**

- a) Any person, firm, or corporation who fails to comply with the provisions of this Section shall, upon conviction thereof, pay forfeiture as set forth in Appendix C Fines and Penalties, reference this code section, plus the cost of prosecution for each violation and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding thirty (30) days. Each violation and each day a violation exists or continues shall constitute a separate offence.
- b) Nothing in this section shall be construed to prevent the Town from using any other lawful means to enforce this Section.
- c) The owner of any wind energy system or met tower shall further be liable to the Town for reasonable attorney's fees incurred by the Town for enforcing this Ordinance in addition to any and all other Fines and Penalties.

15) **Severability.** The provisions of this Section are severable, and the invalidity of any section, subdivision, paragraph, or other part of this Section shall not affect the validity or effectiveness of the remainder of the Section.

16) **Retroactive and Prospective Effect.** This Section shall apply to all large wind energy systems, small wind energy systems, and met towers, which have not yet been approved by the Town Board by affirmative action in an open meeting as of the effective date of this Section.