

*Town of Buchanan, WI  
Thursday, February 9, 2023*

## Chapter 525. Zoning

[HISTORY: Adopted by the Town Board of the Town of Buchanan 11-4-1997 as Ch. 63 of the 1997 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Plan Commission — See Ch. **114**.  
Adult entertainment — See Ch. **185**.  
Building construction — See Ch. **230**.  
Impact fees — See Ch. **330**.  
Mobile home parks — See Ch. **383**.  
Noise — See Ch. **400**.  
Subdivision of land — See Ch. **460**.  
Towers and antennas — see Ch. **478**.  
Abandoned and junked vehicles — See Ch. **492**.  
Wind energy facilities — See Ch. **513**.

## Article I. Introduction

### § 525-1. Statutory authority.

This chapter is established pursuant to the provisions of § 60.62, Wis. Stats., and shall be known as "the Town of Buchanan Zoning Ordinance."

### § 525-2. Purpose.

It is the purpose of this chapter to promote the public health, safety, convenience and general welfare; to protect property values and the property tax base; to permit the careful planning and efficient maintenance of highway systems; to ensure adequate highway, utility, health, educational and recreational facilities; to recognize the needs of agriculture, forestry, industry and business in future growth; to encourage uses of land and other natural resources which are in accordance with their character and adaptability; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to encourage the protection of groundwater resources; to preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of landscape and man-made developments; to provide healthy surroundings for family life; and to promote the efficient and economical use of public lands.

### § 525-3. Applicability and extent of power.

This chapter is designed to determine, establish, regulate and restrict:

- A. The areas within which agriculture, forestry, industry, mining, trades, business and recreation may be conducted.
- B. The areas in which residential uses may be regulated or prohibited.

- C. The areas in or along natural watercourses, channels, streams and creeks in which trades or industries, filling or dumping, erection of structures and the location of buildings may be prohibited or restricted.
- D. Trailer camps or tourist camps and motels, or both, and mobile home parks.
- E. Designate certain areas, uses or purposes which may be subjected to special regulation.
- F. The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.
- G. The location, height, bulk, number of stories and size of buildings and other structures.
- H. The location of roads and schools.
- I. Building setback lines.
- J. The density and distribution of population.
- K. The percentage of lot which may be occupied, size of yards, courts and other open spaces.
- L. Places, structures or objects with a special character, historic interest, aesthetic interest or other significant value, historic landmarks and historic districts.
- M. Burial sites, as defined in § 157.70(1)(b), Wis. Stats.

## Article II. General Provisions

### § 525-4. Establishment of districts.

To achieve the purposes of this chapter, the Town is hereby divided into the following districts as set forth in Article V of this chapter.

AED	Exclusive Agricultural District
AGD	General Agricultural District
RSF	Single-Family Residential District
RTF	Two-Family Residential District
RMF	Multifamily Residential District
CL	Local Commercial District
CR	Regional Commercial District
CP	Planned Commercial District
IND	Industrial District

### § 525-5. Official Zoning Atlas.

- A. Establishment. The location and boundaries of the districts shall be as shown in a map atlas entitled "the Official Zoning Atlas of Town of Buchanan, Outagamie County, Wisconsin." The district symbol as set out in § 525-4 above and Article V of this chapter shall be used to designate each district. The Official Zoning Atlas with all notations, dimensions, designations, references and other data shown shall accompany and be part of this chapter, and upon adoption by the Town of Buchanan Board, each map page shall be signed by the Town Chairperson and attested by the Town Administrator, bearing the date of adoption.

[Amended 11-10-2016 by Res. No. 2016-05]

- B. Amendments. Amendments to the Official Zoning Atlas shall be approved by the Outagamie County Board of Supervisors in accordance with the provisions of this chapter and § 60.62, Wis. Stats. Amendments shall be effective as provided in § 60.62, Wis. Stats. Amendments shall promptly be portrayed on the appropriate map page and include the ordinance number and effective date of the amendment.
- C. Final authority as to zoning status. Regardless of the existence of purported copies of all or part of the Official Zoning Atlas which may from time to time be made or published, the Official Zoning Atlas, which shall be located in the Administrator's office, shall be the final authority as to the current zoning status of any lands.  
[Amended 11-10-2016 by Res. No. 2016-05]
- D. Replacement of Official Zoning Atlas. If the Official Zoning Atlas, or any page or portion thereof, becomes damaged, lost, destroyed or difficult to interpret, the Town Board may by resolution adopt a new Official Zoning Atlas or any page or pages thereof, which shall supersede the prior Official Zoning Atlas, or page or pages thereof. The new Official Zoning Atlas, or page or pages thereof, may correct drafting or other errors or omissions, but no such correction shall have the effect of amending the original Official Zoning Atlas or page or pages thereof. If, in the process of correcting drafting or other errors or omissions, district boundaries are changed or altered, then action shall be taken only in the form of an amendment.
- E. Retention of earlier maps. All zoning maps which have had the force and effect of official zoning maps for the Town of Buchanan prior to the effective date of adoption of this chapter shall be retained as a public record and as a guide to the zoning status of lands prior to such date.

## § 525-6. Interpretation of district boundaries.

- A. Except as otherwise specifically provided, a district symbol or name shown within district boundaries on the Official Zoning Atlas indicates that the district regulations pertaining to the district extend throughout the whole area surrounded by the boundary line.
- B. Where uncertainty exists as to the boundaries of districts shown on the Official Zoning Atlas, the following rules apply:
  - (1) Boundaries indicated as approximately following the center lines of streets, highways, alleys or rights-of-way shall be construed as following such center lines as they exist on the ground.
  - (2) Boundaries indicated as approximately following lot lines shall be construed as following such lines; provided, however, that where such boundaries are adjacent to the dedicated street, highway or right-of-way and the zoning status of the street, highway or right-of-way is not indicated, the boundaries shall be construed as running to the middle of the street, highway or right-of-way.
  - (3) Boundaries indicated as approximately following the limits of incorporated municipalities shall be construed as following such limits.
  - (4) Boundaries indicated as following railroad tracks shall be construed as being midway between the main tracks.
  - (5) Where boundaries do not follow property lines and distances are not specified, boundaries shall be determined by the use of the scale on the Official Zoning Atlas.
  - (6) Where the property layout existing on the ground is at variance with that shown in the Official Zoning Atlas, the Zoning Administrator shall interpret the Official Zoning Atlas. The determination by the Zoning Administrator may be appealed as provided in § 525-92.

## § 525-7. Application of regulations.

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

- A. No land, building or structure shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No sign shall hereafter be erected, hung, placed, painted, altered, or moved except in conformity with the regulations of the district in which it is located.
- C. No part of a yard, open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, off-street parking or loading space similarly required for any other building.
- D. No lot or yard existing at the effective date of adoption of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Lots or yards created after the effective date of adoption of this chapter shall meet the minimum requirements established by this chapter.
- E. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced. No accessory building shall be used unless the principal building on the lot is also being used. No cellar or basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is part.

## § 525-8. Interpretation.

[Amended 8-17-2010 by Ord. No. 2010-03]

In their interpretation and application, the provisions of this chapter shall be considered minimum requirements, except where a maximum requirement is noted. Where the provisions of this chapter impose greater restrictions than any statutes, other regulations, ordinances or covenants, the provisions of this chapter shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this chapter, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

## § 525-9. Other regulations applicable to development and use of land and structures.

[Amended 8-17-2010 by Ord. No. 2010-03]

In addition to the applicability of this chapter, certain lands and structures in the Town of Buchanan are also subject to, without limitation, regulations pertaining to floodplains, subdivisions, erosion control, stormwater management, shorelands and wetlands.

## Article III. Definition of Terms

### § 525-10. Word usage.

For the purpose of this chapter, the following shall apply as indicated throughout the chapter:

- A. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- B. The present tense includes the future tense, and the singular includes the plural.
- C. The word "shall" is mandatory; the word "may" is permissive.

- D. The words "used" or "occupied" also mean "intended, designed or arranged to be used or occupied."

## § 525-11. Definition of terms.

For the purpose of this chapter, the following terms are defined as follows:

### **ACCESSORY USE OR STRUCTURE**

A use or structure on the same lot with the principal use or structure and of a nature customarily incidental and subordinate to the principal structure.

### **AIRPORT (PUBLIC)**

Any airport which complies with the definition contained in Ch. 114, Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.

### **ALLEY**

A public or approved private way which affords only a secondary means of access to abutting property.

### **ALTERATION**

A change or rearrangement in the structural parts of a structure, an enlargement of a structure, whether by extending on the side or by increasing the height, or the movement of a structure from one location to another.

### **AUTOMOBILE FILLING STATION**

Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories and convenience retail goods may be supplied, dispensed and sold and where minor repair or maintenance work may be performed, such as ignition service, tire repair, repair and replacement of minor parts such as pumps and filters and the like. A filling station is not a repair or body shop.

### **AUTOMOBILE SALVAGE YARD**

Premises used for the storing, dismantling, crushing, shredding or disassembly of used motor vehicles or their parts.<sup>[1]</sup>

### **BOARDINGHOUSE**

An establishment where meals and lodging are provided for compensation by prearrangement other than in dwelling units, without limitation on time periods involved, and for a total of at least four or more boarders.

### **BUILDING**

A structure having one or more stories and a roof which is used or intended to be used for shelter or enclosure for persons, property or animals.

### **BUILDING FRONTAGE**

The front of a building shall be construed to be the portion facing a street. For purposes of computation of the number and area of signs, the frontage of a building shall be computed as nearly at ground level as computation of horizontal distance permits. In cases where this test is indeterminate or cannot be applied, as for instance where there is a diagonal corner entrance, the Zoning Administrator or Building Inspector shall select building frontage on the basis of interior layout of the building, traffic on adjacent streets or other indicators.

### **BUILDING HEIGHT**

A building's vertical measurement, from the main level of the finished grade in front of the building to the highest point on the roofline of a flat roof or a roof having a pitch ratio of less than 1.4 from the horizontal, and to a point midway between the peak and the eaves of a roof having a pitch ratio of more than 1.4.

**BUILDING LINE**

The rear edge of any required front yard or the rear edge of any required setback line.

**BUILDING SITE**

The lot or lots or portion of a lot or lots used for a building, the total area of which lots is ascribed to the building for compliance with these zoning regulations.

**CLINIC**

An office or group of offices relating to the health care professions, including physicians, dentists and the like engaged in the treatment of persons.

**COMMON OPEN SPACE**

A parcel or parcels of land or an area of water or combination of land and water designated and intended for either the recreational use and enjoyment of residents of the development for which it was established and for the general public or for the exclusive recreational use and enjoyment of residents of the development for which it was established. No yard required in connection with any principal use or structure shall be designated or intended for use as common open space.

**COMMUNITY LIVING ARRANGEMENT**

Facilities defined in § 46.03, Wis. Stats.

**CONVALESCENT HOME and NURSING HOME**

A place where regular care is provided to three or more infirm persons, children or aged persons who are not members of the family which resides on the premises.

**COUNTY**

Outagamie County, Wisconsin.

**DAY CARE****A. FAMILY**

A place where regular day care is provided to not more than eight children and is licensed pursuant to Ch. 48, Wis. Stats.

**B. GROUP**

A place where regular day care is provided to nine or more children and is licensed pursuant to Ch. 48, Wis. Stats

**DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including but not limited to construction or additions or substantial improvements to buildings, other structures or accessory uses, mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations, and deposition of materials.

**DRIVE-IN RESTAURANT**

Any establishment dispensing or serving food in automobiles, including those establishments where customers serve themselves and may eat or drink in the building or in their automobiles on the premises.

**DWELLING, MULTIFAMILY**

A building containing three or more dwelling units. The term "multifamily dwelling" shall include cooperative apartments, condominiums, apartments and the like. Regardless of how rental units are equipped, any multifamily dwelling in which units are available for rental periods of less than one week shall be considered a motel.

**DWELLING, SINGLE-FAMILY ATTACHED**

A building containing not more than one dwelling unit attached at the side or sides in a series or a group of three or more buildings, each containing not more than one dwelling unit. Each building

shall be separated from the adjoining building or buildings by a party wall or walls extending from footings through roofs. The term "attached dwelling" is intended to imply townhouses, patio or atrium houses or any form which conforms to this definition.

#### **DWELLING, SINGLE-FAMILY DETACHED**

A building containing not more than one dwelling unit, entirely separate from structures on adjacent lots. The term "detached dwelling" shall not include mobile homes, travel trailers, or other forms of portable or temporary housing but shall include manufactured homes. All single-family dwellings shall:

- A. Contain not less than 1,200 square feet of living area.
- B. Be covered by a roof pitched at a minimum slope of five inches in 12 inches which is permanently covered with nonreflective material.
- C. Have overhanging eaves of not less than 18 inches.
- D. Be a minimum of 25 feet in width. Attached garages, carports and open decks shall not be included in the measurement of the width.

#### **DWELLING, TWO-FAMILY**

One building containing not more than two dwelling units or two buildings, attached at the side, with not more than one dwelling unit per building. The term "two-family dwelling" is intended to imply single-family semidetached buildings and duplexes or any form which conforms to this definition.

#### **DWELLING UNIT**

A room or rooms connected together, constituting a separate, independent housekeeping establishment for one family only, for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities.

#### **FAIR MARKET VALUE**

Assessed value adjusted for equalized value.

#### **FAMILY**

One or more persons living together in a single dwelling unit as a traditional family or the functional equivalent of a traditional family. It shall be a rebuttable presumption that four or more persons living together in a single dwelling unit who are not related by blood, adoption or marriage do not constitute the functional equivalent of a traditional family. In determining the functional equivalent of a traditional family, the following criteria shall be present:

[Amended 8-17-2010 by Ord. No. 2010-03]

- A. The group shares the entire dwelling unit.
- B. The group lives and cooks together as a single housekeeping unit.
- C. The group shares expenses for food, rent, utilities or other household expenses.
- D. The group is permanent and stable and not transient or temporary in nature.
- E. Any other factor reasonably related to whether the group is the functional equivalent of a family.

#### **FLOOR AREA**

The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, excluding public corridors, common rest rooms, attic area, unenclosed stairways, elevator structures, heating or other building machinery or equipment, or basement space.

#### **FLOOR AREA RATIO**

The ratio of the total floor area of a building to the total lot area.

**FUR FARM**

Land, buildings or structures used for the purpose of raising or harboring fur-bearing animals including those defined in § 29.001, Wis. Stats., and also including chinchillas, whether the animals are kept for breeding, slaughtering or petting.

**GARAGE, PRIVATE**

An accessory building designed or used for inside parking of not more than three private motor vehicles, recreational vehicles or boats by the occupant of the principal building. A private garage attached to or a part of the main building is to be considered part of the main building.

**GARAGE, STORAGE**

An accessory building designed or used for the storage of more than three motor vehicles, recreational vehicles or boats.<sup>[2]</sup>

**HOTEL**

An establishment where sleeping accommodations are offered to the public and intended primarily for rental to transients, with daily charge, as distinguished from multifamily dwellings and boardinghouses where rentals are for periods of a week or longer and occupancy is generally by residents rather than transients. Hotels may serve meals to both occupants and others. The term "hotel" is also intended to imply motel, motor court, motor lodge, tourist court or any form which conforms to this definition.

**JUNKYARD**

Premises or land, buildings or structures where junk, waste, discarded, salvaged or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, cordage, barrels, containers, etc., are brought, bought, sold, exchanged, baled, packed, stored or handled, including used lumber and building materials, equipment, wrecking yards and the like. This definition shall not include automobile salvage or wrecking yards or pawnshops and establishments for the sale, storage or purchase of secondhand vehicles, clothing, furniture, appliances or similar household goods, all of which shall be usable, nor shall it apply to the processing of used, discarded or salvageable materials incident to manufacturing activity on the same site.

[Amended 8-17-2010 by Ord. No. 2010-03]

**KENNEL AND PET SHOP**

Any establishment for the raising, training, boarding or selling of dogs, cats, birds, mice, rats or other small animals, for hire or profit, or where more than three dogs, cats or other small animals are harbored or kept.

[Amended 8-17-2010 by Ord. No. 2010-03]

**LANDSCAPING**

Landscaping shall consist of, but not be limited to, grass, ground covers, shrubs, vines, hedges, trees, berms and complementary structural landscape architectural features, such as rock, fountains, sculpture, decorative walls and tree wells.

**LOT**

A parcel of land used or set aside and available for use as the site for one or more buildings and buildings accessory thereto or for any other purpose, in one ownership and not divided by a street nor including any land within the limits of a public or private street right-of-way. The term "record lot" shall mean land designated as a distinct and separate parcel on a legally recorded deed or plat in the Register of Deeds office.

**LOT AREA**

The total horizontal area within the lot lines of the lot.

**LOT COVERAGE**

The percentage of the lot area covered by the principal structure.

**LOT DEPTH**



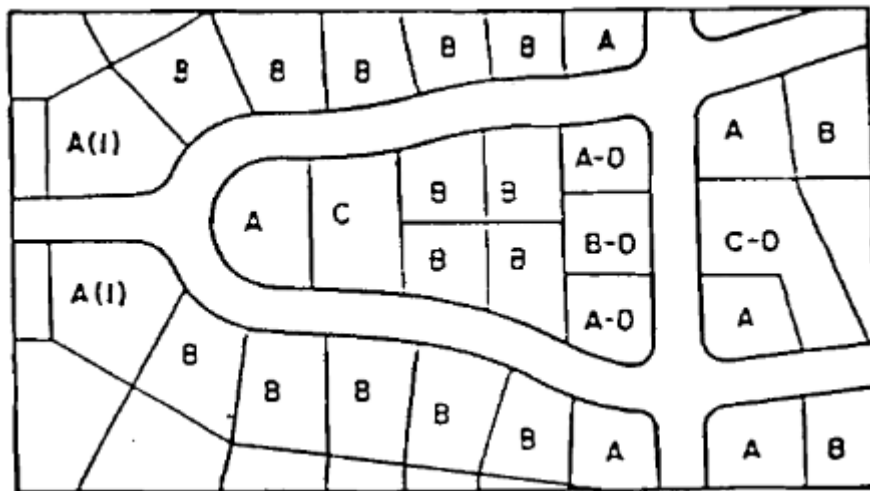
Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost point of the side lot lines in the rear.

### LOT FRONTAGE

The front of an interior lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street shall be considered frontage, and yards shall be provided as set out in these zoning regulations. For the purpose of computing number and area of signs, frontage of a lot shall be established by orientation of the frontage of buildings thereon or of principal entrance points to the premises if building frontage does not clearly indicate lot frontage. If neither of these methods are determinative, the Building Inspector shall select on the basis of traffic flow on adjacent streets, and the lot shall be considered to front on the street with the greater flow.

### LOT TYPES

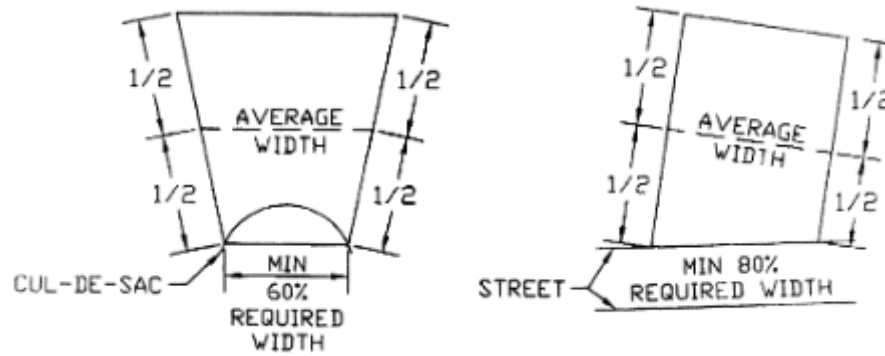
The diagram which follows illustrates the terminology used in this chapter with reference to corner lots, interior lots, reversed frontage lots and through lots.



- A = corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than 135°. See lots A(1) in the diagram.
- B = interior lot, defined as a lot other than a corner lot with only one frontage on a street.
- C = through lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- D = reversed frontage lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135°) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), and interior lot (B-D) or a through lot (C-D).

### LOT WIDTH

Width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with street line) and the rearmost points of the side lot lines in the rear; provided, however, that the width between the side lot lines at their foremost points in the front shall not be less than 80% of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the width shall not be less than 60% of the required lot width.



### MANUFACTURED HOME

A structure certified and labeled as a manufactured home under 42 U.S.C. §§ 5401 to 5426, which, when placed on the site:

- A. Is set on an enclosed continuous foundation in accordance with § 70.43(1), Wis. Stats., and Ch. Comm 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
- B. Is installed in accordance with the manufacturer's instructions.
- C. Is properly connected to utilities;
- D. Is without any hitch, wheel or axle; and
- E. Meets other applicable standards of this chapter.

### MOBILE HOME

A vehicle manufactured or assembled prior to June 15, 1976, designed to be towed as a single unit or in sections on a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes a structure which has been certified and labeled as a manufactured home under 42 U.S.C. §§ 5401 to 5426, or which has been certified and labeled as a manufactured home under §§ 101.91 to 101.96, Wis. Stats., and Ch. Comm 26, Wis. Adm. Code, if the structure:

- A. Is not set upon an enclosed permanent foundation upon land owned by the mobile home owner;
- B. Is on wheels;
- C. Is not properly connected to utilities;
- D. Has tow bars, wheels or axles attached to it; or
- E. Has not been installed in accordance with the manufacturer's instructions or a plan certified by a registered architect or engineer so as to ensure proper support for the structure.

### NET ACRES

The total acreage of a lot, tract or parcel of land, excluding land in existing and proposed streets and street rights-of-way.

### NET DENSITY

The term "net density" refers to the number of residential dwelling units permitted per net acre of land and is determined by dividing the number of units by the total area of land within the boundaries of a lot or parcel not including street rights-of-way. In the determination of the number of

dwellings to be permitted on a specific parcel of land, a fractional unit shall not entitle the applicant to an additional unit.

### **OFFICE, BUSINESS**

A business office is an office for such activities as real estate agencies, advertising agencies (but not sign shops), insurance agencies, travel agencies and ticket sales, chamber of commerce, credit bureau (but not finance company), abstract and title agencies or insurance companies, stockbrokers and the like. It is characteristic of a business office that retail or wholesale goods are not shown on the premises to a customer. A barber or beauty shop is not a business office.

### **OFFICE, PROFESSIONAL**

A professional office is an office for the use of a person or persons generally classified as professionals, such as architects, engineers, attorneys, accountants, doctors, dentists, chiropractors, psychiatrists, psychologists and the like.

### **PLAN COMMISSION**

The agency or commission designated by the Town Board pursuant to § 62.23 Wis. Stats.

### **PLANNED UNIT DEVELOPMENT**

A residential land development comprehensively planned as an entity via a unitary plan which permits flexibility in building siting, mixtures of housing types, usable open spaces and the preservation of significant natural features.

### **RECREATIONAL CAMP**

Premises and facilities used occasionally or periodically for the accommodation of members of groups or associations for outdoor recreational activities.

### **RURAL RESIDENTIAL DEVELOPMENT**

Single-family residential development outside the current sewer service area and sewer service planning area.

### **SIGN**

Any device for visual communications and the structure which supports it, which is used or intended to attract attention of the public, when the display of this device is visible from a Town right-of-way.

The term "sign" shall not include flags. See also Article VII, Signs.<sup>[3]</sup>

[Amended 8-17-2010 by Ord. No. 2010-03; 4-24-2018 by Ord. No. 2018-03]

### **SPECIAL EXCEPTION**

Those uses or structures that may not be appropriate generally or without restriction throughout a district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, comfort, convenience or the general welfare, such uses or structures may be permitted in a zoning district if they meet the requirements of the district in which they are located and Article XIII.

### **STABLE**

Premises where more than one horse (livestock) is boarded, raised, kept or retained regardless of whether such horses are (livestock is) owned by the occupants or owners of the premises. A stable shall provide not less than one acre of lot area per horse.

### **STABLE, RIDING**

Premises on which horses are (livestock is) kept for the purpose of renting them to the public on any basis. A riding stable shall consist of not less than five acres.

### **STORAGE ESTABLISHMENT**

Premises where goods and materials or more than three motor vehicles, recreational vehicles or boats are stored for a fee.

### **STORY**

That portion of a building, other than a basement, that is between the surface of any floor and the surface of the next floor above it or, if there is not a floor above, then the space between such floor and the ceiling next above it.

### **STREET LINE**

The dividing line between the street and the lot. The street line shall be the same as the legal right-of-way line.

### **STRUCTURE**

Anything constructed or erected with a fixed location on the ground or attached to something with a fixed location on the ground. Among other things, structures include signs, fences, mobile homes and parking lots.

### **VARIANCE**

A relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. Variances may be granted only if they meet the requirements of Article **XIV** of this chapter.

### **YARD**

An open space other than a court on a lot, unoccupied and unobstructed from the ground upward; provided, however, that fences, walls, poles, posts, and other customary yard accessory ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility. "Required yard" means the minimum distances specified by this chapter measured from the property line.

### **YARD, FRONT**

A yard extending across the front of a lot between the side lot lines, and extending from the street line to the nearest line of the principal structure or projection of the principal structure.

### **YARD, REAR**

A yard extending across the rear of a lot between the side lot lines, and extending from the rear property line to the nearest line of the principal structure or projection of the principal structure.

### **YARD, SIDE**

A yard extending between the nearest building or projection thereto and the side lot line and extending from the front yard to the rear yard.

- [1] *Editor's Note: The definition of "billboard" which immediately followed this definition was repealed 8-17-2010 by Ord. No. 2010-03. See now Art. VII, Signs, § 525-42.*
- [2] *Editor's Note: The definition of "home occupation" which immediately followed this definition was repealed 8-17-2010 by Ord. No. 2010-03. See now § 525-40.*
- [3] *Editor's Note: The definitions of "sign, accessory," "sign area," "signs, number of" and "sign types," which immediately followed this definition, were repealed 8-17-2010 by Ord. No. 2010-03.*

## **Article IV. Nonconformities**

### **§ 525-12. Applicability and intent.**

[Amended 8-17-2010 by Ord. No. 2010-03]

Any use of land or structures or any lot or structure which lawfully existed at the effective date of adoption or amendment of this chapter which would not be permitted or permissible by the provisions of this chapter as adopted or amended shall be deemed nonconforming. It is the intent of this chapter to permit such nonconformities to continue, subject to certain restrictions.

## § 525-13. Nonconforming uses of land or land with minor structures only.

Where at the effective date of adoption or amendment of this chapter a use of land exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure or structures with a fair market value of less than \$10,000, such use may be continued subject to the following restrictions:

- A. Such use shall not be enlarged, increased, nor extended to occupy a greater area of the lot than was occupied at the effective date of adoption or amendment of this chapter.
- B. Such use shall not be moved in whole or part to any other portion of the lot other than the portion occupied by such use at the effective date of adoption or amendment of this chapter.
- C. When such use is discontinued or abandoned for a period of more than 12 consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
- D. No additional structure in connection with such use shall be erected.

## § 525-14. Nonconforming uses of structures.

Where at the effective date of adoption or amendment of this chapter the use of a structure exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure with a fair market value exceeding \$10,000, such use may be continued subject to the following restrictions:

- A. No existing structure devoted to a use not permitted or permissible shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted or permissible in the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of adoption or amendment of this chapter. Any nonconforming use which occupied a portion of a building not originally designed or intended for such use shall not be extended to any other part of the building. No nonconforming use shall be extended to occupy any land outside the building nor any other building not used for such nonconforming use.
- C. There may be a change in tenancy, ownership or management of a nonconforming use, provided there is no change in the nature or character of such nonconforming use.
- D. When such use of a structure is discontinued or abandoned for a period of more than 12 consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
- E. If a structure occupied by a nonconforming use is removed or destroyed or damaged to an extent of more than 50% of its fair market value at the time of destruction, the nonconforming use shall not be resumed, except as provided in § 62.23(7)(hc), Wis. Stats.  
[Amended 8-17-2010 by Ord. No. 2010-03]

## § 525-15. Nonconforming structures.

Where at the effective date of adoption or amendment of this chapter a structure exists which could not be erected in the district in which it is located by reason of restriction on area or coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence subject to the following restrictions:

- A. Such structure shall not be altered in any manner which would increase the degree of nonconformity. The total structural repairs or alterations in such nonconforming structure shall not during its life exceed 50% of the fair market value of the structure.
- B. If such structure is destroyed or damaged to an extent of less than 50% of its replacement cost at the time of destruction, it may be reconstructed, provided reconstruction shall substantially reflect the prior structural arrangement and shall not increase the degree of nonconformity. If such structure is destroyed or damaged to an extent of more than 50% of its fair market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the district in which it is located, except as provided in § 62.23(7)(hc), Wis. Stats.  
[Amended 8-17-2010 by Ord. No. 2010-03]

## § 525-16. Nonconforming characteristics of use.

If characteristics of use such as lighting, parking, noise or other matters pertaining to the use of land, structures and premises are made nonconforming by the provisions of this chapter, as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase or which decrease such nonconformity.

## § 525-17. Nonconforming lots of record.

- A. In any district, any permitted or permissible structure may be erected on a single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width, or both, for the district in which it is located, provided such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership, and provided all other requirements for the district are met.
- B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of adoption or amendment of this chapter, the lands involved shall be considered to be an individual parcel for the purposes of this chapter, and no portion of such parcel shall be used, divided or sold which does not meet the lot area and lot width requirements for the district in which it is located.

## § 525-18. Casual, temporary or illegal use.

The casual, temporary or illegal use of land or structures, or land and structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.

## § 525-19. Repairs and maintenance.

Nothing in this chapter shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.

## § 525-20. Existing special exceptions.

Any use or structure existing on the effective date of adoption or amendment of this chapter which is classified as a special exception in the district in which it is located shall be deemed to have been granted approval, subject to maintaining the character and extent of such use or structure existing on that date. Any extension, enlargement or change in such use or structure shall require approval according to the terms of this chapter.

## Article V. Schedule of District Regulations

### § 525-21. Interpretation and organization.

- A. District regulations shall be as set forth in this article and as modified and supplemented by Articles **VI** and **IX**.
- B. Permitted principal and accessory uses and structures listed for any district shall be permitted by right subject to the conditions as specified.
- C. Special exception uses and structures listed for any district are permissible only upon approval by the Town of Buchanan Plan Commission after notice and hearing subject to the conditions as specified and any other conditions as may be imposed by the Plan Commission to promote the general health, safety and welfare.
- D. In those instances where district regulations set forth a list of permitted or permissible uses followed by the phrase "and uses of a similar nature," it is understood that the list of permitted or permissible uses is not exhaustive or all inclusive but that other uses of a like or similar nature are also permitted or permissible. Determination of whether a specific use, not enumerated, is of a like or similar nature shall be made by the Zoning Administrator. The determination by the Zoning Administrator may be appealed as provided in § **525-92**.
- E. All uses and structures, dimensional, sign and off-street parking regulations shall be subject to Articles **V**, **VI**, **VII** and **VIII**.
- F. All uses and structures, as specified in the Schedule of District Regulations, shall be subject to the regulations and requirements for the use as provided in Article **IX**.

### § 525-22. AED Exclusive Agricultural District.

- A. Purpose. The intent of this district is to maintain highly productive agricultural lands in agricultural production by effectively limiting encroachment of nonagricultural development; by minimizing land use conflicts between agricultural and nonagricultural uses; and by minimizing public service and facility costs associated with nonagricultural development. This district is further intended to comply with standards contained in Ch. 91, Wis. Stats., to permit eligible landowners to receive tax credits under § 71.09, Wis. Stats., in connection with their agricultural operations.
- B. Permitted principal uses and structures:
  - (1) Agricultural uses, including beekeeping, commercial feedlots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, grass, mint and seed crops, raising of fruits, nuts, and berries, sod farming, placing land in federal programs in return for payments in kind, owning land at least 35 acres of which is enrolled in the conservation reserve program under 16 U.S.C. §§ 3831 to 3836, participating in the milk production termination program under 7 U.S.C. § 1446(d) and vegetable raising.
  - (2) Dwellings existing before the effective date of adoption of this chapter which are not necessary to or associated with agricultural uses.
  - (3) For purposes of farm consolidation, farm residences or structures which existed prior to the effective date of adoption of this chapter may be separated from the larger farm parcel.
  - (4) Kennels and pet shops.  
[Added 8-17-2010 by Ord. No. 2010-03]
- C. Permitted accessory uses and structures:

- (1) Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures. Single-family dwellings shall be considered accessory to agricultural uses, provided such dwellings are occupied by a person or a family at least one member of which earns a substantial part of his or her livelihood from farming operations on the farm parcel or is the parent or child of the farm operator. Accessory dwellings may be established on a separate parcel.
- (2) One roadside stand per farm used solely for the sale of products produced on the premises.<sup>[1]</sup>  
 [1] *Editor's Note: Original Sec. 63-05(2)(3)(c), which immediately followed this subsection and listed home occupations, was repealed 8-17-2010 by Ord. No. 2010-03.*

(3) Public utility installations.

D. Special exception uses and structures:

- (1) Fur farms.
- (2) Riding stables.
- (3) Sawmills.
- (4) Farm equipment and machinery sales and service.
- (5) Establishments for the processing, centralized bulk collection, storage or distribution of agricultural products.
- (6) Governmental uses, including landfills, highway storage facilities and public buildings.
- (7) Mobile homes.
- (8) Public and semipublic nonprofit institutional uses, including churches, schools, libraries, museums and the like.
- (9) Veterinary offices.

E. Dimensional requirements.

- (1) Principal agricultural uses and structures. Minimum lot area: 35 acres. There are no minimum lot width or yard requirements and no height limitations.
- (2) Preexisting dwellings and accessory dwellings on a separate parcel. Minimum lot area: 20,000 square feet; minimum lot width: 100 feet. Yards shall be a minimum of 25 feet in depth if at the front or rear and 15 feet in width if at the side. There are no height limitations.
- (3) Other permissible principal uses and structures. Minimum lot area: one acre; minimum lot width: 150 feet; minimum front and rear yard depth: 40 feet; and minimum lot area and yard requirements may be increased as a condition for a special exception permit.

## § 525-23. AGD General Agricultural District.

- A. Purpose. The intent of this district is to maintain open land areas predominantly devoted to farming and agricultural related uses. It is anticipated that while certain areas within this district will eventually be used for nonagricultural uses; the intensity of development will remain significantly limited due to a lack of urban facilities and services. It is also intended that this district provide for small-scale family-oriented businesses on a case-by-case basis.
- B. Permitted principal uses and structures.
  - (1) Permitted principal uses and structures in § **525-22B(1)** in the AED District.
  - (2) Public and semipublic nonprofit institutional uses of a similar nature.



- (3) Parks, preserves and golf courses.
- (4) Rural residential development, including single-family detached dwellings unrelated to any farm operations, as a principal use and structure on individual lots which are outside the current sewer service area and sewer service planning area and which are not part of a recorded subdivision plat as defined in the Town of Buchanan Subdivision Ordinance.<sup>[1]</sup>  
*[1] Editor's Note: See Ch. 460, Subdivision of Land.*

C. Permitted accessory uses and structures.

- (1) Permitted accessory uses and structures in § **525-22C(1)** through **(3)** in the AED District.
- (2) Home occupations.  
[Added 8-17-2010 by Ord. No. 2010-03]

D. Special exception uses and structures.

- (1) Special exception uses and structures in § **525-22D(1)** through **(7)** in the AED District; provided, however, that no such use or structure shall be located within 500 feet of an existing residential dwelling other than the owner's or within 500 feet of the exterior boundary of a recorded subdivision plat.
- (2) Two-family dwellings, provided that the dimensional requirements of § **525-25** are met.
- (3) Cemeteries.
- (4) Veterinary offices.
- (5) Warehouse, storage, and building supply establishments, subject to the conditions in Subsection **D(1)** above.
- (6) Resource extraction uses, including quarrying and sand and gravel pits, subject to the requirements of § **525-62**.
- (7) Outdoor commercial recreational uses, including recreational camps, campgrounds, golf, archery and rifle ranges, sledding and skiing facilities and uses of a similar nature.
- (8) Commercial exhibits of historical or natural significance.
- (9) Automobile salvage yards, subject to the conditions in Subsection **D(1)** above, involving storage of less than 50 vehicles and where no crushing or processing of parts and materials is conducted on the premises, and provided all vehicles and parts are effectively screened from view from any residential lot or public highway.
- (10) Contractors' storage yard, provided all equipment and materials are effectively screened from view from any residential lot or public highway.
- (11) The following uses, provided the owner or proprietor resides on the premises: Automobiles, farm equipment and small engine repair shops; offices and/or shops in connection with skilled tradesmen, including plumbers, electricians, carpenters, welders and the like; and production and/or sales of crafts produced on the premises, provided mechanical or chemical processes are incidental or nonexistent.
- (12) Taverns existing before the effective date of adoption of this chapter.
- (13) Sales of lawn and garden equipment in connection with a plant nursery.
- (14) Airports, public or private.
- (15) Kennels and pet shops.  
[Amended 8-17-2010 by Ord. No. 2010-03]

E. Dimensional.

- (1) Principal agricultural uses. Minimum lot area: four acres; lot width: 200 feet; and front yard: 25 feet. There are no side or rear yard requirements and no height limitations on buildings or structures.
- (2) Rural residential single-family detached dwellings and mobile homes on individual lots. Minimum lot area: one acre; minimum frontage on existing or newly created public highway or road: 150 feet; lot width: 150 feet; front yard setback: minimum 30 feet; rear yard: 30 feet; side yards: 20 feet each.
- (3) Other permitted or permissible uses and structures. Minimum lot area: one acre; lot width: 150 feet; front yard: 25 feet; rear yard: 50 feet; side yards: 30 feet each; provided, however, that for any building or structure over 40 feet in height the side yards shall be increased by one foot for every two feet in additional height. Minimum lot area and yard requirements may be increased as a condition for a special exception permit.

## § 525-24. RSF Single-Family Residential District.

- A. Purpose. This district is intended to provide for single-family detached residential development. The density of development is based on the availability of public facilities and the extent of coordination and planning as indicated by whether the development is part of an approved and recorded subdivision plat.
- B. Permitted principal uses and structures:
  - (1) Single-family detached dwellings.
  - (2) Public and semipublic nonprofit institutional uses, including churches, schools, libraries and the like, provided principal access shall be directly onto a collector or arterial street.
  - (3) Parks, playgrounds, golf courses and community centers.
  - (4) Community living arrangements, subject to the provisions and limitations of § 62.23(7)(i), Wis. Stats.
  - (5) Day care (family).
- C. Permitted accessory uses and structures:
  - (1) Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
  - (2) Temporary structures in connection with the construction of principal structures, provided such structures are not used for living purposes. Temporary structures shall not remain over 90 days after construction of the principal structure is substantially complete.
  - (3) Home occupations.
  - (4) Public utility installations.
- D. Special exception uses and structures:
  - (1) Convalescent homes and nursing homes.
  - (2) Cemeteries.
  - (3) Gardens, nurseries and orchards, provided no sales are conducted on the premises.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 63-05(4)(4)(d), which immediately followed this subsection and listed cluster subdivisions, was repealed 8-17-2010 by Ord. No. 2010-03.*
  - (4) Accessory dwelling subject to the provisions of § 525-61.

- (5) Bed-and-breakfast establishments, provided the owner resides on the premises.
- (6) Storage garage as an accessory building.
- (7) Day care (group).

E. Dimensional requirements.

- (1) Single-family detached dwellings.
  - (a) Within an approved and recorded subdivision plat served by public sewer, minimum dimensions are as follows: lot area: 10,000 square feet per dwelling; lot width: 90 feet; front yard: 25 feet; side yards: six feet each; rear yard: 25 feet; maximum lot coverage: 30%; maximum height: 35 feet (2 1/2 stories).
  - (b) Not within an approved and recorded subdivision plat but served by public sewer, minimum dimensions are as follows: 9,000 square feet per dwelling; lot width: 75 feet; front yard: 25 feet; side yards: seven feet each; rear yard: 25 feet; maximum lot coverage: 20%; maximum height: 35 feet (2 1/2 stories).
  - (c) Within an approved and recorded subdivision plat not served by public sewer, minimum dimensions are as follows: lot area and lot width as provided in Ch. Comm 85, Wis. Adm. Code, but in no event shall lot area be less than 15,000 square feet and lot width be less than 90 feet; front yard: 25 feet; side yards: eight feet each; rear yard: 35 feet; maximum lot coverage: 15%; maximum height: 35 feet (2 1/2 stories).
  - (d) Not within an approved and recorded subdivision plat not served by public sewer, minimum dimensions as follows: lot area and lot width as provided in Ch. Comm 85, Wis. Adm. Code, but in no event shall lot area be less than 18,000 square feet and lot width be less than 100 feet; front yard: 25 feet; side yards: 10 feet each; rear yard: 40 feet; maximum lot coverage: 15%; maximum height: 35 feet (2 1/2 stories).
- (2) Other permitted or permissible uses and structures.
  - (a) Served by public sewer, minimum dimensions are as follows: lot area: 10,000 square feet; lot width: 90 feet; front yard: 25 feet; side yards: 15 feet each; rear yard: 30 feet; maximum lot coverage: 20%; maximum height: 35 feet (2 1/2 stories).
  - (b) Not served by public sewer, minimum dimensions as follows: lot area: 18,000 square feet; lot width: 100 feet; front yard: 25 feet; side yards: 25 feet each; rear yard: 40 feet; maximum lot coverage: 15%; maximum height: 35 feet (2 1/2 stories).

## § 525-25. RTF Residential Two-Family District.

- A. Purpose. This district is intended to provide for medium density residential development with emphasis on two-family and single-family attached residential uses. This district is also intended to provide for infilling opportunities for parcels which for various reasons have been bypassed by development. This district is primarily intended to apply to areas presently served by a public sewer system.
- B. Permitted principal uses and structures.
  - (1) Permitted principal uses and structures in § 525-24B(1) through (5) in the RSF District.
  - (2) Two-family dwellings served by a public sewer system.
  - (3) Single-family attached dwellings served by a public sewer system.
- C. Permitted accessory uses and structures.
  - (1) Permitted accessory uses and structures in § 525-24C(1) through (4) in the RSF District.

(2) Home occupations.

D. Special exception uses and structures:

(1) Special exception uses and structures in § **525-24D(1)** through (8) in the RSF District.

(2) Two-family dwellings not served by a public sewer system.

(3) Planned unit developments, subject to the provisions of § **525-63**.

E. Dimensional requirements.

(1) Single-family detached dwellings. Dimensional requirements as provided in the RSF District.

(2) Two-family dwellings.

(a) Served by public sewer and water, minimum dimensions as follows: lot area: 9,000 square feet (4,500 square feet per family); lot width: 75 feet; front yard: 25 feet; side yards, eight feet each; rear yard: 25 feet; maximum lot coverage: 30%; maximum height: 35 feet (2 1/2 stories).

(b) Not served by public sewer, minimum dimensions as follows: lot area and lot width as provided in Ch. Comm 85, Wis. Adm. Code, but in no event shall lot area be less than 18,000 square feet and lot width be less than 100 feet; front yard: 25 feet; side yards: 10 feet each; rear yard: 40 feet; maximum lot coverage: 15%; maximum height: 35 feet (2 1/2 stories).

(3) Single-family attached dwellings.

(a) Each single-family attached development shall have a minimum lot area of 12,000 square feet and minimum lot width of 100 feet. Each group or series of single-family attached dwellings shall have a minimum front yard of 25 feet; side yards of 10 feet each; and rear yard of 25 feet; maximum density is 10 dwelling units per net acre; maximum lot coverage: 25%; and maximum height: 35 feet (2 1/2 stories). Not more than six dwelling units shall be contiguous or in one series or group and not more than two contiguous dwelling units in one group or series shall have the same or approximately the same roofline or building line. Not less than 40% of the total site area shall be landscaped in lawns, gardens, decorative plantings or wooded areas. A site plan under Article **XII** is required for all single-family attached dwelling developments. Common open spaces shall be subject to the requirements of § **525-37**.

(b) Exception for zero-lot-line duplexes.

[Added 8-17-2010 by Ord. No. 2010-03]

[1] Lots shall have not less than fifty-foot frontage measured along the right-of-way line. If such lot is located on the outer radius of a curved street or cul-de-sac, the frontage may be measured at the building front setback line, provided the right-of-way frontage is at least 25 feet.

[2] Lots shall have not less than 6,000 square feet in area.

[3] A note shall be placed on the face of all certified survey maps and subdivision plats creating zero-lot-lines which states: "When attached dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe and maintenance shall be guarded against by private covenants and deed restrictions, and the approving authorities shall not be held responsible for same."

[4] Easements shall be provided across zero lot lines where necessary for water, sewer and utility services.

- [5] A restrictive covenant shall be placed on the face of all certified survey maps and subdivision plats creating zero-lot-line lots which states: "Building permits are limited to the development of zero-lot-line duplexes on Lots \_\_\_ through \_\_\_, inclusive, unless two adjoining lots are combined and used as a single lot for the construction of a single-family dwelling unit. In this case, an odd number of lots may not be left as a series of consecutive lots."
- [6] There shall be a common wall. Wherever improvements abut on the common boundary line between adjoining units there shall be a one-hour fire wall running from the lowest floor level, including the basement if it is the common wall, to the underside of the roof sheathing. Such basement wall, if any, shall be waterproofed masonry.
- [7] When attached dwelling units are created, the plans, specifications and construction of such building shall require the installation and construction of separate sewer, water and other utility services to each dwelling unit.
- [8] Further division of lots containing 100 feet of frontage or less, presently abutting existing improved streets, shall not be permitted.
- [9] The side yard setback may be zero on one side, provided that:
  - [a] The lot adjacent to that side yard is held under the same ownership at the time of initial construction.
  - [b] The adjoining side yard setback of the lot adjacent to the zero side yard is also zero.
  - [c] The opposite side yard is not less than eight feet.
  - [d] Both units of duplex's exterior finish must be completed within one year of building permit issuance date.
- (4) Other permitted or permissible uses and structures: Dimensional requirements as provided in the RSF District.

## § 525-26. RMF Multifamily Residential District.

- A. Purpose. This district is intended to provide for medium- to high-density residential areas with emphasis on multifamily or apartment development. This district requires access to public sewer.
- B. Permitted principal uses and structures:
  - (1) Permitted principal uses and structures in § **525-24B(1)** through **(5)** in the RSF District.
  - (2) Two-family dwellings.
  - (3) Single-family attached dwellings.
  - (4) Multifamily dwellings, provided the building does not exceed three stories in height.
- C. Permitted accessory uses and structures. Permitted accessory uses and structures in § **525-24C(1)** through **(4)** in the RSF District.
- D. Special exception uses and structures:
  - (1) Special exception uses and structures in § **525-24D(1)** through **(4)** in the RSF District.
  - (2) Multifamily dwellings in buildings exceeding three stories in height.
- E. Dimensional requirements.
  - (1) Single-family detached dwellings. Dimensional requirements as provided in the RSF District.

- (2) Two-family dwellings. Dimensional requirements as provided in the RTF District.
- (3) Single-family attached dwellings. Dimensional requirements as provided in the RTF District.
- (4) Multifamily dwellings.
  - (a) Not exceeding three stories or 45 feet in height, minimum dimensions are as follows: lot area: 10,000 square feet; lot width: 90 feet; front and rear yard: 25 feet; side yards: 20 feet each; maximum density: 20 dwelling units per net acre; lot coverage: 30%. Not less than 30% of the total site area shall be landscaped in lawns, gardens, decorative plantings or wooded areas. A site plan under Article **XII** is required.
  - (b) Exceeding three stories or 45 feet in heights, minimum dimensions are as follows: lot area: 20,000 square feet; lot width: 100 feet; all yard: 25 feet each; provided, however, that for every two feet in building height above 45 feet, yard width or depth shall be increased one foot. Not less than 30% of the total site area shall be landscaped in lawns, gardens, decorative plantings or wooded areas. A site plan under Article **XII** is required.
- (5) Other permitted or permissible uses and structures: Dimensional requirements as specified in the RSF District.

## § 525-27. CL Local Commercial District.

- A. Purpose. This district is intended to apply to commercial establishments located to serve primarily localized commercial markets throughout the Town. It is the intent of this district to encourage grouping of such commercial establishments. The district is not intended to apply to major or large-scale commercial establishments of a regional character.
- B. Permitted principal uses and structures:
  - (1) Retail outlets including the sale of food, liquor, wearing apparel, art or photographic supplies, printing, books or stationary, sundries or notions, jewelry, luggage, florist or gifts, drugs, pets, home furnishings and appliances, sporting goods or hobbies, automotive parts, hardware and building supply establishments and uses of a similar nature.
  - (2) Service establishments including barber or beauty shop, shoe repair, laundry or dry cleaner, appliance repair, photographic or dance studio and uses of a similar nature.
  - (3) Business and professional offices including banks and other financial institutions, insurance and real estate, travel agency, medical or dental clinic, attorney's office, engineering office and uses of a similar nature.
  - (4) Taverns and restaurants.
  - (5) Hotels and motels.
  - (6) Clubs and organizations, profit or nonprofit.
  - (7) Indoor commercial recreational establishments including motion-picture theaters, billiard parlors, arcades, bowling alleys, rinks and uses of a similar nature.
  - (8) Convalescent homes and nursing homes and day care (family or group).
  - (9) Office equipment and supplies.
  - (10) Garden center, plant nursery or landscape contractor.
  - (11) Veterinary offices.
  - (12) Mortuaries.
  - (13) Equipment rental.

- (14) Existing dwellings.
- (15) Storage establishments.
- (16) Attached single-family residences.

C. Permitted accessory uses and structures:

- (1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permissible principal uses and structures when they are located on the same lot or a lot contiguous with the principal use or structure.
- (2) Public utility installations.

D. Special exception uses and structures:

- (1) Automobile filling stations and car washes.
- (2) Automobile, boat, motorcycle, construction equipment and farm implement sales, service and repair.
- (3) Wholesale and warehouse establishments.
- (4) Printing and publishing establishments.
- (5) Outdoor recreational establishments, including archery ranges, miniature golf and amusements.
- (6) Light manufacturing uses and structures such as packaging, bottling, storage facilities, and laboratories, provided all activities are conducted within completely enclosed buildings, not involving odor, noise, smoke or other noxious effects detectable to normal senses from off the premises.
- (7) Radio stations.
- (8) Dog kennels.
- (9) Building trades contractor with storage yard for material and equipment on premises, provided all materials and equipment are effectively screened from view from any residential lot or public highway.
- (10) Agriculture-related uses and structures, such as feedmills and co-ops.
- (11) Woodworking and cabinetry.<sup>[1]</sup>

[1] *Editor's Note: Former Subsection D(12), regarding billboards, which immediately followed, was repealed 11-13-2018 by Ord. No. 2018-11.*

E. Dimensional requirements.

- (1) All permitted principal uses and structures. Minimum dimensions are as follows: lot area: 10,000 square feet; lot width: 90 feet; front yard: 35 feet; side yards: 20 feet each; rear yard: 50 feet; maximum lot coverage: 35%; and maximum height: 50 feet. Any required yard adjacent to a residential district without an intervening street shall be subject to the landscaped buffer requirements of § 525-38.
- (2) All special exception uses and structures. Minimum dimensions are as follows: lot area: 12,000 square feet; lot width: 100 feet; front yard: 35 feet; side yards: 25 feet each; rear yard: 50 feet; maximum lot coverage: 35%; maximum height: 50 feet. Any required yard adjacent to a residential district without an intervening street shall be subject to the landscaped buffer requirements of § 525-38.

## § 525-28. CR Regional Commercial District.

- A. Purpose. This district is intended to apply to areas which are now intensely developed or are expected to be intensely developed for commercial uses serving a regional commercial market.
- B. Permitted principal uses and structures:
- (1) Permitted principal uses and structures in § **525-27B(1)** through **(3)** in the CL District where the building or structure does not exceed 40,000 square feet of floor area. The front of all buildings shall be faced with decorative masonry or other materials of suitable aesthetic, safety and durability value.
  - (2) Permitted principal uses and structures in § **525-27B(4)** through **(14)** in the CL District. Building fronts shall meet the requirements of Subsection **B(1)** above.
- C. Permitted accessory uses and structures: permitted accessory uses and structures in the CL District.
- D. Special exception uses and structures:
- (1) Retail, service and office uses and structures where the building or structure exceeds 40,000 square feet of floor area.
  - (2) Special exception uses and structures in § **525-27D(1)** through **(8)** in the CL District.
- E. Dimensional requirements.
- (1) All permitted or permissible principal uses and structures: lot area: 12,000 square feet; lot width: 100 feet; front yard: 35 feet; side yards: 20 feet each; rear yard: 50 feet; maximum lot coverage: 35%; maximum floor area ratio: 1 to 1. (Floor area ratio is the ratio of the floor area of the building or structure to the lot area.) There is no maximum height requirement except that, for every two feet in building height over 50 feet, yard depth or width shall be increased one foot. Ingress and egress shall be channeled and, where feasible, coordinated with adjacent establishments. Any required yard adjacent to the residential district without an intervening street shall be subject to the landscaped buffer requirements of § **525-38**. A site plan under Article **XII** is required for all buildings and structures exceeding 20,000 square feet.

## § 525-29. CP Planned Commercial District.

- A. Purpose. This district is intended to apply to large-scale commercial developments with either single or multiple buildings on a single lot or parcel designed and managed as a single entity. This district should be located such that there is direct access to major arterial streets and highways.
- B. Permitted principal uses and structures:
- (1) Business and professional offices.
  - (2) Art gallery, museum, library, community center, publicly owned and operated recreational facilities.
  - (3) Hotels and restaurants.
  - (4) Clubs and organizations.
  - (5) Retail shopping centers, provided all sales and storage are conducted within a completely enclosed building.
  - (6) Hospitals, health centers, nursing homes and convalescent homes.
  - (7) Vocational, trade or business schools.
- C. Permitted accessory uses and structures:



- (1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permissible principal uses and structures.
  - (2) Public utility installations.
- D. Special exception uses and structures:
- (1) Privately owned auditoriums or convention centers.
  - (2) Privately owned sporting and recreational facilities.
- E. Dimensional requirements.
- (1) All permissible principal uses and structures. Minimum dimensions: lot area: two acres; lot width (street frontage requirement): 200 feet; maximum lot coverage: 35%. This district contemplates more than one principal building on a lot. There are no minimum lot area requirements per building. However, no building shall be located within 25 feet of another building or exterior property line. There are no maximum height requirements except that, for every two feet in height above four stories or 50 feet, the width or depth of yards adjacent to exterior lot lines shall be increased one foot. A site plan under Article **XII** is required.

## § 525-30. IND Industrial District.

- A. Purpose. This district is intended primarily for manufacturing and closely related uses. It is intended to preserve such lands for the functions of industrial activity, wholesaling, warehousing and distribution. To allow maximum latitude for operations, performance standards are applied at district boundaries. It is further the intent of this district that it be so located in relation to major thoroughfares that resulting traffic generated by industrial activity will not be channeled through residential areas.
- B. Permitted principal uses and structures:
- (1) Wholesaling, warehouse, storage or distribution establishments (except bulk storage of flammable liquids) and uses of a similar nature.
  - (2) Automobile, boat, construction and farm implement sales, service and repair.
  - (3) Printing and publishing.
  - (4) Agriculture-related uses, including feedmills and co-ops.
  - (5) Service establishments catering to commercial and industrial uses including business machine services, linen supply, freight movers, communication services, canteen services and uses of a similar nature.
  - (6) Light manufacturing uses including bottling, packaging, laboratories and uses of a similar nature.
  - (7) Manufacturing uses, including production, processing, cleaning, testing and the distribution of materials and goods, except wrecking yards, fertilizer and chemical manufacture and canneries or slaughterhouses. All manufacturing uses are subject to the provisions of § **525-65**.
  - (8) Building contractor with storage yard.
  - (9) Transportation terminals.
- C. Permitted accessory uses and structures:
- (1) Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.

- (2) Outside storage of materials and products, provided such storage shall not be closer than 25 feet from the street line or 10 feet from any lot line. Storage areas shall be enclosed by fencing material and/or landscaping to be 75% or more opaque between two feet and six feet above average ground level. All storage areas shall be surfaced with gravel or hard surface materials. Storage materials shall not be piled or stacked to a height beyond the principal building.
- (3) Temporary storage of waste materials and trash, provided such materials/trash shall be enclosed by a fence of solid material not less than six feet in height.
- (4) Public utility installations.

D. Special exception uses and structures:

- (1) Bulk storage of flammable liquids.
- (2) Fertilizer and chemical manufacture, subject to the provisions of § 525-65.
- (3) Canneries and slaughterhouses, subject to the provisions of § 525-65.
- (4) Automobile wrecking or salvage yards and junkyards, provided such use shall not be located closer than 250 feet to any property zoned residential and no portion of the lot within 25 feet of a public street or highway shall be used for any purpose other than off-street parking for employees or patrons. All activities and storage shall be completely enclosed pursuant to the landscaped buffer requirements of § 525-38.
- (5) Sanitary landfills and energy-recovery systems.

E. Dimensional requirements.

- (1) All permissible principal uses and structures. Minimum dimensions: lot area: 12,000 square feet; lot width: 100 feet; front yard: 35 feet; side yards: 20 feet each; rear yard: 25 feet; provided, however, there are no rear or side yard requirements when a railroad right-of-way abuts at the side or the rear of the property line. Any required side or rear yard adjacent to a residential district boundary shall be subject to the landscaped buffer requirement of § 525-38. Maximum lot coverage: 35%. There are no maximum height requirements except that, for every two feet in height above 50 feet, the width or depth of yards shall be increased by one foot. A site plan under Article XII is required for all buildings and structures exceeding 30,000 square feet in floor area.

F. Performance standards; industrial developments. It is the intent to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects.

[Added 3-14-2017 by Ord. No. 2017-01]

- (1) Noise.
  - (a) No activity in an Industrial District shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

<b>Octave Band Frequency</b>	<b>Sound Level</b>
<b>(cycles per second)</b>	<b>(decibels)</b>
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59
600 to 1,200	53
1,200 to 2,400	47

<b>Octave Band Frequency (cycles per second)</b>	<b>Sound Level (decibels)</b>
2,400 to 4,800	41
Above 4,800	39

- (b) All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.
- (2) Vibration.
- (a) No operation or activity shall transmit any physical vibration perception threshold of an individual at or beyond the property line of the source. "Vibration perception threshold" means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- (b) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.
- (3) External lighting. No operation or activity shall produce any intense glare or lighting with the source directly visible beyond an Industrial District's boundaries.
- (4) Odor. No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in § NR 429.03, Wis. Adm. Code.
- (5) Particulate emissions. No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Ch. NR 415, Wis. Adm. Code.
- (6) Visible emissions. No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Ch. NR 431, Wis. Adm. Code.
- (7) Hazardous pollutants. No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Ch. NR 445, Wis. Adm. Code.

## Article VI. Supplementary District Regulations

### § 525-31. General application.

The regulations set forth herein shall supplement or modify the regulations set forth in Article V, Schedule of District Regulations.

### § 525-32. Setbacks on federal, state and county highways.

The front yard (setback) requirements enumerated in Article V are applicable to local streets and highways. Front yard (setback) requirements for federal and state highways are 50 feet and county trunk highways, 35 feet. Setback requirements for federal, state and county highways are subject to § **525-33B**.

### § 525-33. Lots and yards.

- A. More than one building on a lot. In any district, more than one building housing a principal use may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each building as though it were on an individual lot, unless otherwise specified in Articles **V** and **IX** for planned commercial or residential developments.
- B. Through lots and corner lots. On through lots or lots with double frontage, the required front yard shall be provided on each street. On corner lots, the street side yard shall be equal to the required front yard for lots fronting on that street.
- C. Development in mapped streets. Where an official line has been established for the future widening or opening of a street, the depth of a front yard or the width of a side yard shall be measured from such official line to the nearest line of the building.
- D. Access. Every building housing a principal use hereafter erected or moved shall be on a lot with access to a public street and all such buildings shall be so located as to provide safe and convenient access for servicing and off-street parking, unless otherwise specified in Articles **V** and **IX**.
- E. Building groups. In any nonresidential district, a group of buildings separated only by common or party walls shall be considered as one building.
- F. Yard encroachments. Every part of every required front and side yard shall be open and unobstructed by structures from 30 inches above the general ground level of the graded lot upward to the sky, except as hereinafter provided or as otherwise permitted in this chapter.
  - (1) Roof eaves may project into a required side yard not more than three feet where the required side yard is eight feet or more in width. Roof eaves may project into a required side yard not more than two feet where the required side yard is less than eight feet.
  - (2) Sills, belt courses, cornices, vertical solar screens and other ornamental features may project not over one foot into a required yard.
  - (3) Fire escapes, stairways and balconies, whether unroofed, open and unenclosed or enclosed, shall not intrude into required yards.
  - (4) Solar collectors which are part of the principal building may extend into a required rear yard for a distance not to exceed 10 feet, and solar collectors may extend into a required side yard, provided that they have a minimum seven-foot clearance from grade, and provided further that such extension shall be at least five feet distance from the adjacent lot line and shall not extend more than three feet from the building.

## § 525-34. Accessory uses, buildings and structures.

[Amended by Ord. No. 2003-01; 12-20-2011 by Ord. No. 2011-04; 3-20-2012 by Ord. No. 2012-01; 4-22-2014 by Ord. No. 2014-06; 10-21-2014 by Ord. No. 2014-12; 7-21-2015 by Ord. No. 2015-02; 4-24-2018 by Ord. No. 2018-01]

- A. General regulations for accessory uses, buildings and structures. All accessory uses, buildings, and/or structures shall abide by the following general regulations:
  - (1) No accessory use, building and/or structure shall be constructed or established on a lot prior to the principal use or building being present or under construction, except temporary construction trailers.
  - (2) When attached to the principal building, accessory buildings and/or structures shall comply with all requirements of this chapter applicable to the principal building, unless otherwise stated, including, but not limited to, setback requirements, building height limits, and maximum lot coverage standards.

- (3) When not attached to the principal building, accessory buildings and/or structures shall comply with all requirements of this chapter applicable to the accessory buildings and/or structures in the zoning district, including, but not limited to, placement, size, drainage, and design standards.
  - (4) Accessory buildings or structures shall not be located closer to the front lot line than the principal structure.
  - (5) Accessory buildings or structures shall not be located within any recorded easement (utility, drainage, or otherwise) without written consent of the entity controlling the easement.
  - (6) The following, including, but not limited to, truck, truck tractor, truck trailer, canopy, bus, railroad car, camper, camping trailer, utility trailer, motorhome or similar vehicle or structure, or portion thereof, shall not be used for storage purposes, as a principal use and/or structure or an accessory use and/or structure in any zoning district unless otherwise stated in this chapter.
  - (7) Any detached accessory use, building and/or structure with a water closet (toilet facility) shall require a special exception permit, pursuant to special exception permits.
  - (8) Accessory uses, buildings and/or structures shall be located on the same lot as the principal use, structure or building.
  - (9) Detached accessory buildings shall not be used as a secondary dwelling.
  - (10) One portable storage unit shall be allowed on a lot for no more than 30 consecutive days and no more than 60 total days per calendar year. The unit shall be placed on an impervious surface and shall not be located within 10 feet of road right-of-way.
- B. Use restrictions. All accessory uses, buildings and/or structures shall abide by the following use restrictions.
- (1) When located in zoning districts AGD, RSF, RTF, RMF:
    - (a) Accessory buildings shall be restricted to parking, storage, or private activities by the occupant(s) of the lot upon which the building is located. Any manufacturing, retail, or commercial activities are prohibited.
    - (b) The enclosed parking or storage of not more than one commercial or service vehicle may be permitted within an attached garage or detached garage provided that such vehicle is used by the occupant(s) of the lot upon which the vehicle is parked or stored.
  - (2) The enclosed parking, storage, or use within an attached garage, detached garage, building or structure shall be restricted to the occupant(s) of the principal use or building.
  - (3) Within residential zoning districts and recorded subdivision plats within the AED or ADG District, there is a maximum of one detached garage or structure per dwelling unit. In the ADG District, agricultural district, there is a maximum of two detached garages or structures per dwelling unit.  
[Amended 11-17-2020 by Ord. No. 2020-05]
- C. Placement.
- (1) Detached buildings or structures shall be a minimum of 10 feet from any other structure on the property.
  - (2) Detached buildings or structures shall meet the front yard setbacks.
  - (3) Detached buildings or structures shall meet the following side and rear setbacks:
    - (a) AGD zoning: 25 feet.
    - (b) Recorded subdivision plats within AED or ADG zoning: eight feet.  
[Added 11-17-2020 by Ord. No. 2020-05<sup>[1]</sup>]

[1] *Editor's Note: This ordinance also redesignated former Subsection C(3)(b) as Subsection C(3)(c).*

(c) RSF, RTF, RMF zoning: eight feet.

D. Coverage, size, height.

(1) Lot coverage. The total square footage, in-ground floor area, of all structures (existing and proposed) shall not exceed the following (swimming pools and decks are excluded):

(a) AGD zoning: 10%.

(b) Recorded subdivision plats within AED or ADG zoning: 25%.

[Added 11-17-2020 by Ord. No. 2020-05<sup>[2]</sup>

[2] *Editor's Note: This ordinance also redesignated former Subsection C(3)(b) as Subsection C(3)(c).*

(c) RSF zoning: 25%.

(d) RTF, RMF zoning: 40%.

(2) Impervious surface coverage. The total square footage, in ground floor area, of all structures (existing and proposed) shall not exceed the following (swimming pools, decks, driveways, and patios are included):

(a) AGD zoning: 30%.

(b) Recorded subdivision plats within AED or ADG zoning: 35%.

[Added 11-17-2020 by Ord. No. 2020-05<sup>[3]</sup>

[3] *Editor's Note: This ordinance also redesignated former Subsection C(3)(b) as Subsection C(3)(c).*

(c) RSF zoning: 35%.

(d) RTF, RMF zoning: 60%.

(3) No detached building or structure shall exceed total in-ground floor area as follows:

(a) AGD zoning: 3,000 square feet.

(b) Recorded subdivision plats within AED or ADG zoning: 900 square feet.

[Added 11-17-2020 by Ord. No. 2020-05<sup>[4]</sup>

[4] *Editor's Note: This ordinance also redesignated former Subsection C(3)(b) as Subsection C(3)(c).*

(c) RSF zoning: 900 square feet.

(4) No detached building or structure shall exceed a dimension from the finished floor elevation to the highest point of its roof as follows:

(a) AGD zoning: 24 feet.

(b) Recorded subdivision plats within AED or ADG zoning: 18 feet.

[Added 11-17-2020 by Ord. No. 2020-05<sup>[5]</sup>

[5] *Editor's Note: This ordinance also redesignated former Subsection C(3)(b) as Subsection C(3)(c).*

(c) RSF zoning: 18 feet.

E. Drainage, site plan. An application for an accessory building or structure shall include a site/drainage plan showing the following:

(1) Name, address, and designer of the proposed use.

- (2) Property boundary lines to include dimensions.
  - (3) Location, dimension, and square footage of principal and proposed buildings or structures.
  - (4) Location, dimension, and square footage of patios, decks, swimming pools, and driveways (existing and proposed).
  - (5) Public rights-of-way, easements, natural features, etc.
  - (6) Elevations of finished floors (principal and proposed) and adjacent lot lines.
  - (7) Arrows depicting the intended direction of water flow outward in all directions from the finished floor.
  - (8) Water detention facility (if proposed) to include ingress and egress elevations and direction of flow.
- F. Design standards. The overall intent is to promote and encourage a variety of architectural styles. However, basic harmony with the principal building is intended to prevail so that no one structure detracts from the other.
- (1) Materials. Sides and end claddings may be one or a combination of the following:
    - (a) Hard-burned clay brick, natural or cultured stone, with color and texture compatible with the principal building.
    - (b) Horizontal or vertical wood, vinyl, composite, or architectural steel siding with color and texture compatible with the principal building.
  - (2) Roofs. The intent of this section is to promote reasonable compatibility with the principal building.
    - (a) No roof pitch (slope) shall be less than three inches of rise in 12 inches of run.
    - (b) Roof formations pitching from one side or end to the other are prohibited.
    - (c) Roofs shall be clad with shingles or nonreflective material compatible with the principal building.
    - (d) Wooden shake or similar wooden roof claddings are prohibited.
  - (3) Outdoor lighting.
    - (a) Wall or soffit lighting shall be direct cutoff by design and shall not allow trespass onto adjacent properties.
  - (4) Mechanical equipment. All mechanical equipment whether electrical or mechanical for the purpose of air circulation or other, shall be contained within the perimeter of the exterior walls and roof. Condensing units for cooling are allowed.  
[Amended 11-17-2020 by Ord. No. 2020-05]
- G. Building permit required. No owner shall build, construct, use or place any type of an accessory building and/or structure, including prefabricated accessory buildings, until a building permit shall first have been obtained from the building inspector. A building permit is not required for children's play structures.
- H. Fences, walls, hedges.
- (1) Definition. For the purposes of this chapter, a fence is herein defined as an enclosing barrier consisting of vegetation, wood, stone or metal, or other material. The term "fence" shall be construed to include plantings such as hedges.
  - (2) General regulations. No fence shall have sharp or pointed pickets dangerous to life or limb. Hedges and other plantings shall be continuously trimmed and all parts thereof confined to the

property on which planted. Fences may be located on lot lines.

- (3) Residential fences. No fence or hedges exceeding 3 1/2 feet in height shall be allowed within the building setback limits adjacent to a street right-of-way, except that, in a rear yard setback where there is no access to a street right-of-way, the maximum height may be six feet. The maximum height of fences on any other boundary line shall not be more than six feet in height, except the hedges may be permitted to grow to their natural height and pools with self-contained fencing or guardrails may reach a height of eight feet. Barbed-wire fences, electrical fences, and single-, double- and triple-strand fences are prohibited. The most attractive side of a fence shall face adjoining property.

I. Accessory parking and storage in Single-Family Residential (RSF), Two-Family Residential (RTF) and Multifamily Residential (RMF) Districts.

- (1) Definitions. For the purpose of this subsection, the following terms are defined. All other words and phrases shall be given their common, ordinary meaning, unless the context requires otherwise. Words and phrases not defined but defined elsewhere in this chapter shall be given the meaning set forth therein.

**BOAT**

Any description of watercraft used or capable of being used as a means of transportation on water.

**RECREATIONAL VEHICLE**

A sports vehicle, all-terrain vehicle, camper, snowmobile, motor home, truck mounted dwelling, fifth wheel, or like recreational vehicle.

**TRAILER**

A vehicle or transport used to tow, hold or store a boat or recreational vehicle. When a trailer is being used to hold a boat or recreational vehicle it shall not be counted as a separate unit for the purposes of this section. Shall also include any other utility, storage or transport trailer.

- (2) Permitted parking or storage of boats, recreational vehicles and trailers. In all residential districts provided for in this Zoning Chapter, it is permissible to park or store one boat or recreational vehicle or trailer on private property in the following manner:
  - (a) Within the front yard or side yard on a paved or gravel surface only. Further restrictions shall also apply as follows:
    - [1] Parking or storage in front yards shall be only allowed for the time period of April 1 to October 31, except for snowmobiles.
    - [2] All paved parking or storage areas shall be surfaced with a dustless all-weather material capable of carrying a wheel load of 4,000 pounds (normally, a two-inch blacktop on a four-inch base or five inches of cement will meet this requirement). Gravel surfaces which can also meet this requirement are allowed.
    - [3] Parking or storage in side yards shall be subject to a minimum setback of three feet from all lot lines.
    - [4] No storage or parking shall be allowed on lawns located in front or side yards.
  - (b) Parking or storage in rear yards is allowed on lawns or paved or gravel surfaces subject to minimum setback of five feet from all lot lines. Parking or storage in the rear yard shall be allowed year round.
  - (c) Only vehicles owned by a resident on whose property the unit is parked or stored may be stored thereon. No storage or parking shall be allowed on any vacant parcel of land without a principal structure.



- (d) No part of the boat, vehicle or trailer may extend or be located in the public right-of-way, within a drainage easement or beyond the paved or gravel portion of a parking or storage area if located in the front or side yard.
- (e) Notwithstanding the restrictions in this section, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a vehicle for use not to exceed 24 consecutive hours.
- (f) Trailers which are not used to tow, hold or store a boat or recreational vehicle that have a hauling gross weight of less than 3,000 pounds and have single axles shall be exempt from restrictions except for Subsection **I(2)(a)[3], (c) and (d)**.
- (g) Parking is permitted only for storage purposes. Vehicles shall not be:
  - [1] Used for dwelling purposes, except for overnight sleeping for a maximum of two consecutive days. Cooking is not permitted at any time in any parked or stored vehicle.
  - [2] Permanently connected to sewer lines, water lines or electricity. The vehicle may be connected to electricity temporarily for charging batteries and other purposes.
  - [3] Used for storage of goods, materials or equipment other than those items considered to be part of the unit or essential for its immediate use.

## § 525-35. Height exceptions.

The height limitations in Article **V**, Schedule of District Regulations, do not apply to belfries, cupolas, antennas, water tanks, elevator bulkheads, chimneys, spires, flagpoles or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

## § 525-36. Corner visibility.

On any corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of 2 1/2 feet and 10 feet above the center-line grades of the intersecting streets in the area bounded by the right-of-way lines of such corner lots and a line joining the points along said right-of-way lines 25 feet from the point of intersection.

## § 525-37. Common open space.

- A. Nature. Common open space shall not include street rights-of-way, driveways, parking areas or yards required in connection with any building.
- B. Buildings and structures. Common open space areas may contain complementary buildings and structures appropriate for the recreational use and enjoyment of the residents of the development for which it was established.
- C. Reservation. When common open space or any portion thereof is to be reserved for the exclusive use and enjoyment of the residents of the development from which it was established, the developer shall establish conditions as to the ownership, maintenance and use of such areas as deemed necessary to assure preservation of its intended purposes. Land designated as common open space shall be restricted by appropriate legal instrument as open space perpetually or for a period of not less than 99 years. Such instrument shall be binding upon the developer, his successors and assigns and shall constitute a covenant running with the land and be recorded as a condition of approval.

- D. Maintenance. In the event that common open space is improperly maintained, the Town of Buchanan may serve written notice upon any property owner or association, setting forth the manner in which such property owner or association has failed to maintain the common open space and demanding maintenance deficiencies be corrected within 30 days. If the deficiencies to be originally set forth or subsequently modified are not corrected within 30 days, the Town may enter upon such common open space and correct maintenance deficiencies. The cost of such maintenance shall be assessed ratable against the properties within the development that have the right to use the area and shall become a tax lien on said properties. The Town shall file notice of any liens in the office of the Town Administrator.  
[Amended 11-10-2016 by Res. No. 2016-05]

## § 525-38. Landscaped buffer.

The use of properly planted and maintained buffer areas may reduce and ease potential incompatibility between and among different uses of land in proximity to each other.

- A. Requirements. Where this chapter requires a landscaped buffer area, the following requirements shall be met:
- (1) The landscaped buffer area shall not be less than eight feet in width measured at right angles to property lines and shall be established along the entire length of and contiguous to the designated property line or lines.
  - (2) The area shall be so designed, planted and maintained as to be 75% or more opaque between two and six feet above average ground level when viewed horizontally.
  - (3) Types and number of plantings for landscaped buffers shall be submitted with application for a building permit or special exception, along with plans and statements demonstrating how the buffer will be maintained in the future.
  - (4) Plantings shall be of a size and type which will ensure the meeting of the seventy-five-percent opacity requirement within no longer than 12 months of the date of the first planting.
  - (5) Failure to maintain the landscaped buffer area as set out above shall be a violation of this chapter.
- B. Substitution for landscaped buffer area. Except when otherwise specifically provided by this chapter, a six-foot-high opaque structure set in a six-foot-wide landscaped buffer area may be substituted for the six-foot-high planted buffer above. If such opaque structure is of nonliving materials, for each 10 feet thereof, an average of one shrub or vine shall be planted abutting such barrier but need not be spaced 10 feet apart. Such shrubs or vines shall be planted along the outside of such barrier unless they are of sufficient height at the time of planting to be readily visible over the top of such barrier. The remainder of the required landscaped areas shall be landscaped with grass, ground cover or other landscaping.
- C. Sight distance. When an accessway intersects a public right-of-way, all landscaping shall provide unobstructed visibility at a level between 2 1/2 feet and 10 feet, as provided in § 525-36. No structure of landscaping except required grass or ground cover shall be located closer than three feet from the edge of any access.

## § 525-39. Private swimming pools.

No person shall construct, install or enlarge a residential swimming pool not enclosed in a permanent building in the Town except in accordance with the following regulations:

- A. Definition. "Swimming pool" means any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent and either above or below the ground, in

which water more than 18 inches deep is contained and which is used primarily for the purpose of bathing or swimming.

B. Permit.

- (1) Required. No person shall construct, install, enlarge or alter any private swimming pool unless a permit therefor has been first obtained from the Building Inspector.
- (2) Application. Application shall be on forms provided by the Building Inspector and shall be accompanied by plans drawn to scale showing the following:
  - (a) Location of pool on lot, distance from lot lines and distance from structure.
  - (b) Location of any septic tank, filter bed and sewer and water lines.
  - (c) Pool dimensions and volume of water in gallons.
  - (d) Location of proposed fence, and type, size and gate location.
  - (e) Existing overhead wiring relative to proposed pool.
  - (f) Underground utilities.
- (3) Fees. All fees shall be established by resolution of the Town Board.

C. Construction requirements.

- (1) No pool shall be located, erected, constructed or maintained closer to any side or rear lot line than allowed by this chapter for permitted accessory building uses, and the waterline of any pool shall not be less than 10 feet from any lot line or building.
- (2) No connection shall be made to the sanitary sewer or septic system.
- (3) Where topography requires, a permanent wall of concrete, masonry or material approved by the Building Inspector shall be constructed to prevent ground and fill from spilling onto adjoining property.
- (4) Gaseous chlorination systems shall not be used for disinfecting pool waters.
- (5) No aboveground pool shall be less than 15 feet from any septic system.

D. Fences.

- (1) All in-ground swimming pools not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, not less than four feet in height and so constructed as not to have void, holes or openings more than four inches in one dimension. Gates or doors shall be constructed so as to be capable of being locked and shall be closed and secured so as to prevent unlatching by persons outside the pool at all times when the pool is not in actual use.  
[Amended 12-17-2013 by Ord. No. 2013-02; 3-20-2018 by Ord. No. 2018-02]
  - (a) A pool dome or pool-top fencing attached to the pool to extend not less than four feet in height or a pool cover capable of supporting 100 pounds per square foot of cover area are acceptable substitutes for fencing. The pool cover shall be secured at all times when the pool is not in actual use.

E. Utility sheds and other outbuildings shall not be located closer than five feet to pool area.  
[Amended 8-17-2010 by Ord. No. 2010-03]

F. Electrical requirements.

- (1) To comply with electrical codes. All electrical installations shall require separate permits and shall be governed by the Town Electrical Code.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 230, Building Construction, Arts. III and V.*

- (2) Pool lights. If overhead floor or other artificial lights are used to illuminate the pool at night, such lights shall be shielded to direct light only on the pool.<sup>[2]</sup>

[2] *Editor's Note: Original Sec. 63-06(13), Separation distances for public and private wells, which immediately followed this section and was added by Ord. No. 2006-05, has been moved to Ch. 460, Subdivision of Land, as § 460-70.*

## § 525-40. Home occupations.

[Added 8-17-2010 by Ord. No. 2010-03]

- A. Intent. It is the intent of this section to permit home occupations in any General Agricultural, Two-Family Residential and Single-Family Residential Zoning District, provided that such use conforms to the standards and conditions set forth in this section. In general, a home occupation is an accessory use so located and conducted that the average neighbor would not be aware of said use other than for signage as herein permitted. The standards and conditions for home occupations in this section are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood.
- B. Definition. "Home occupation" means any business, profession, trade or employment conducted in a person's residential dwelling which may involve that person's immediate family and/or household who reside in that residential dwelling.
- C. Standards for home occupations.
- (1) The home occupation shall be clearly incidental to the residential use of the building and parcel and shall not change the essential residential character of the dwelling and parcel.
  - (2) The home occupation shall not be detrimental to the public health, safety and welfare.
  - (3) No chemical, mechanical or electrical equipment that is not normally a part of domestic or household equipment shall be used in connection with the home occupation, and no machinery or equipment shall be used in connection with the home occupation that causes noise or other interference in radio or television reception.
  - (4) No home occupation shall create smoke, odor, glare, noise, dust, vibration, fire hazard or any other nuisance not normally associated with the average residential use in the district.
  - (5) In no case shall the public have physical access to the home occupation from 10:00 p.m. to 7:00 a.m.
  - (6) Home occupations shall not be allowed in accessory buildings or structures, and no more than 25% of the principal structure (residence and principal attached or detached garage) shall be used to conduct the home occupation.
  - (7) The principal person conducting the home occupation must reside at the location of the home occupation. The home occupation can only be performed by members of the immediate family; thus there is no outside employment of individuals.
  - (8) No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front yard.
  - (9) There shall be no exterior storage of equipment, materials, merchandise, or inventory used for the home occupation, and there shall be no more than two vehicles so marked for the home occupation not contained in a structure at any time.
  - (10) Deliveries accepted shall be by United States mail, United Parcel Service (UPS), Federal Express or other similar mail carrier. Semi-truck deliveries shall not be accepted.

D. Permitted home occupations.

- (1) The following are hereby declared to be home occupations as intended by this section:
  - (a) Artists, sculptors, photographers, arts and crafts.
  - (b) Bookkeeping, accountant or tax preparer.
  - (c) Classes of instruction in areas such as music and dance, provided that no more than eight students are on the premises at any one time.
  - (d) Child or adult care with eight or fewer children or adults.
  - (e) Dressmaker or seamstress.
  - (f) Hair dresser or pet groomer, provided that no more than two patrons are on the premises at any one time.
  - (g) Manicure/pedicure, provided that no more than two patrons are on the premises at any one time.
  - (h) Office facilities of a salesperson, sales representative, or manufacturer representative, provided that no retail or wholesale transactions are made in person on the premises.
  - (i) Office facilities of an architect, writer, attorney, broker, financial consultant, engineer, insurance agent, medical professional, interior designer, land surveyor, marketing analyst, transcriber, word processor or real estate sales.
  - (j) Office facilities of a minister, rabbi, priest or other clergy.
  - (k) Office facilities to repair electronic, computer and communication equipment.
  - (l) Telephone, telemarketing, internet or mail order.
  - (m) Sales and distribution of products manufactured on or off the premises where the marketing of said products is through home-oriented sales on an appointment-only basis.
- (2) It is recognized that it is neither possible nor practicable to list all of the home occupations that are compatible with those listed, and therefore it is intended that the aforementioned list of home occupations be illustrative only. Any individual aggrieved by a failure to list a particular home occupation in this section shall have the right to file a petition with the Zoning Administrator for a determination as to the similarity of the intended home occupation with the home occupations listed.

E. Prohibited home occupations.

- (1) The following are hereby declared to be prohibited home occupations: any permitted use or special exception use as identified in Local Commercial, Planned Commercial or Industrial Zoning Districts except for uses identified in Subsection **D** as a permitted home occupation.
- (2) All other uses shall be declared prohibited and will only be permitted with an approved special exception permit as granted through the special exception permit process as identified in Article **XIII** of this chapter. Special exception permits, once granted, may be revoked by the Town Board for cause after notice and a hearing.

F. Signs. One sign shall be allowed not exceeding three square feet in area, nonilluminated and mounted flat against the wall of the principal building.

## Article VII. Signs

[Amended 8-17-2010 by Ord. No. 2010-03; 4-24-2018 by Ord. No. 2018-03]

## § 525-41. Purpose.

- A. The purpose of this article is to allow adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. The regulations, controls, and provisions set forth in this article are made in accordance with an overall plan and program to promote the public health, safety and welfare, area development, and preservation of property values and the general welfare of the Town, and are intended to: aid in traffic control and traffic safety, preserve and protect the property value; lessen congestion of land and air space; provide against undue concentrations of signs which distract and endanger traffic safety and traffic flow; establish reasonable standards for commercial and other advertising through the use of signs in order to maintain and encourage business activity and area development; avoid uncontrolled proliferation of signs; recognize the rights of the public in roads, streets, highways and the areas adjacent to those roads, streets and highways; preserve the wholesome and attractive character of the Town; and to recognize that the general welfare includes a community plan that shall be beautiful as well as healthy, spacious as well as clean, and well-balanced in its growth and development. This article must be interpreted in a manner consistent with the First Amendment guarantee of free speech. This article, therefore, establishes minimum standards by regulating the design, area, number, location, construction and maintenance of signs in the Town.
- B. These regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the Town. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above. Signs not expressly permitted as being allowed by right or by permit under this chapter, by specific requirements in another portion of this Code or other applicable law are prohibited.
- C. These regulations are not intended to and do not apply to signs erected, maintained or otherwise posted, owned or leased by, on behalf of, or as specifically directed or ordered by, federal, state or local governments and government agencies, in the furtherance of authorized government operations or activities within the public right-of-way.

## § 525-42. Definitions.

For the purpose of this article, the following terms are defined. All other words and phrases shall be given their common, ordinary meaning, unless the context requires otherwise. Words and phrases not defined but defined elsewhere in this chapter shall be given the meaning set forth therein.

### **ABANDONED SIGN**

A sign that no longer identifies or advertises an ongoing business, product, location, service, idea or activity conducted on the premises on which the sign is located; a sign located on a property which becomes vacant and is unoccupied for a period of 30 days or more; or a sign which pertains to a time, event or purpose which no longer applies.

### **ALTERATION**

Any modification in the size, shape, height, dimensions, location or mounting of a sign for any reason other than routine maintenance.

### **ANIMATED SIGN**

A sign employing actual motion, the illusion of motion, or light and/or color changes achieved through mechanical, electrical, or electronic means.

### **AREA OF COPY**

The entire area within a single, continuous perimeter composed of squares, rectangles or circles, which encloses the extreme limits of the advertising message, announcement or decoration of a wall sign.

**AREA OF SIGN**

The area of the largest single face of the sign within a perimeter which forms the outside shape but excluding the necessary supports or uprights on which the signs may be placed. If the sign consists of more than one section or module, all areas will be totaled. Any irregular-shaped sign area shall be computed using the actual sign face surface. In the case of wall signs, the area of copy will be used.

**AWNING SIGN**

A sign on an awning, canopy or similar structure.

**BANNER**

Any sign of lightweight fabric, plastic or similar material mounted by the edges or corners to a pole or building. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

**BILLBOARD**

Any off-premises sign exceeding 12 square feet.

**BUILDING FRONT FOOTAGE**

The maximum building width measured at grade on a straight line on the side of the building that faces the street.

**DIRECTIONAL SIGN**

A sign which designates entrances, exits, parking areas and similar functions without advertising.

**DISTRACTING SIGN**

An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. This includes electronic, flashing, animated, mechanical and audible signs.

**ELECTION SIGN**

A temporary sign erected and maintained during that time period before or after a primary, general or special election, as more specifically defined in § 525-50.5B below. No regulation contained herein shall concern the content or message contained on such election signs, but rather only the special rules for size, placement and related regulatory limitations placed on the additional temporary signs allowed by § 525-55B during election periods.

**ELECTRONIC SIGN**

Any sign designed so that characters, letters or illustrations can be changed or rearranged by electronic means without altering the face or the surface of the sign. This also includes traveling or segmented message displays.

**FACE CHANGE**

The modification of a sign without changing the location or area of the sign.

**FLAG**

Any fabric or bunting, attached along only one edge to a pole or permanent structure, containing distinctive colors or patterns, logos and/or corporate masthead or official corporation title/name, and used solely as an identifier of a government or political subdivision, institution or business, with a maximum area of 24 square feet. Banners, as defined above, are not flags for the purpose of this chapter.

**FLASHING SIGN**

Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.

**FREESTANDING SIGN**

Any sign which is attached to or part of a completely self-supporting structure other than a building that has a structural base of less than 75% of the width of the area of the sign.

#### **HEIGHT OF SIGN**

The overall height of a sign or sign structure as measured from the adjacent ground surface to the highest point of the sign.

#### **ILLEGAL SIGN**

Any sign that is not allowed by this article, or does not carry a valid permit when one is required.

#### **ILLUMINATED SIGN**

A sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tube.

#### **LEGAL NONCONFORMING SIGN**

A sign that met code regulations when it was originally erected, either by adherence to the previous sign ordinances of the Town of Buchanan, or by a variance or other exception granted, but does not comply with all present regulations of this article.

#### **MAINTENANCE**

The replacing or repairing of a part or portion of a sign made unusable by ordinary wear, tear or damage beyond the control of the owner or the reprinting of existing copy, change of copy of any sign, repainting, cleaning and other normal maintenance and repair of the sign and sign structure.

#### **MARQUEE SIGN**

Any sign attached to and made part of a marquee, defined as a permanent, roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

#### **MONUMENT SIGN**

Any sign that is independent from any building that has a structural base of not less than 75% the width of the sign. (Example: a sign that is eight feet wide would require a structural base of six feet or more in width.)

#### **MULTIPLE-TENANT COMMERCIAL BUILDING**

A commercial development in which there exists a number of separate commercial activities in which there are appurtenant facilities, such as parking or pedestrian mall, and which is designed to provide a single area in which the public can obtain varied products and services. A multiple-tenant commercial building can be office, retail or mixed use in character.

#### **OFF-PREMISES SIGN**

A sign which is not appurtenant to the use of the property where the sign is located, or to a product sold or a service offered upon the property where the sign is located, and which does not identify the place of business where the sign is located as purveyor of the merchandise or services advertised upon the sign.

#### **PERMANENT SIGN**

Any sign which is intended to be and is so constructed as to be of a lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear) and position, and in permanent manner affixed to the ground, wall or building.

#### **PORTABLE SIGN**

Any temporary sign, not permanently attached to the ground, which is designed to be easily moved from one location to another. Maximum size shall be three feet by six feet.

#### **PROJECTING SIGN**



Any sign other than a wall sign affixed to any building or wall, whose leading edge extends beyond the face of the applicable building or wall.

### **REAL ESTATE SIGN**

Any temporary sign placed on a property that is for sale, lease or rent.

### **ROOF SIGN**

Any sign erected upon or over the roof or parapet of any building.

### **SETBACK**

The required distance a sign must be located from a lot line, easement, right-of-way line, adjacent building or other feature as indicated in this article.

### **SIGN**

See definition of "sign" in § 525-11.

### **TEMPORARY SIGN**

Any sign not permanently attached to the ground, wall or building intended to be displayed for a period of 60 days or less, including, but not limited to, real estate, political or construction site signs, banners, decorative signs and the like.

### **WALL SIGN**

Any sign painted on or attached to and erected parallel to the face of a wall of a building or structure.

### **WINDOW SIGN**

Any sign located within or upon an interior or exterior window surface, and which is intended to be seen from the exterior of the building.

## **§ 525-43. Permits, applications, fees, issuance and denial, appeals, indemnification.**

- A. Permits required. It is unlawful for any person to erect, construct, enlarge or structurally modify a sign or cause the same to be done in the Town of Buchanan without first obtaining a sign permit for each sign from the Town Building Inspector as required by this article. Permits shall not be required for reasonable and routine maintenance as defined in § 525-42.
- B. Application for a permit. Application for a permit must be filed with the Town Building Inspector upon forms provided by the Town containing the following information:
  - (1) The name, address and telephone number of the sign owner, the property owner, where the sign is or will be located and the sign contractor of the proposed sign.
  - (2) Clear and legible scale drawings of the site plan showing the proposed location of signs, landscaping and lighting. The site plan must show the buildings on the premises upon which the structure is to be erected or modified and maintained together with locations, setbacks, size and types of existing signs on the premises where the proposed sign is to be located.
  - (3) Clear and legible scale drawings of the sign detailing all dimensions, construction, height above grade, type of illumination, and lettering and graphics as they will appear on the sign.
  - (4) Calculations or evidence showing that the structure and design meets the requirements of these regulations for wind pressure loads and dead loads.
  - (5) Such other information the Town Building Inspector may require to show full compliance with this and all other applicable laws of the Town.
  - (6) Signature of the applicant.

(7) All required fees.

- C. Permit fees. Application for permit shall be filed with the Town Building Inspector, together with a permit fee for each sign in accordance with the Building Permit Fee Schedule. Permit fees are not refundable.
- D. Permit issuance and denials. The Town Building Inspector shall issue a permit for the erection, structural alteration, enlargement or relocation of a sign when the permit application is properly made, all appropriate fees have been made, and the sign complies with the appropriate laws and regulations. If the sign permit is denied by the Town Building Inspector, s/he shall give written notice of the denial to the applicant, together with a brief statement of the reasons for the denial.
- E. Sign permit appeal. In the event any of the requirements contained herein cause undue or unnecessary hardship on any person, firm or corporation, a variance from the requirements may be applied for to the Board of Appeals. An application for variance must be made within 10 days after receipt of notice that the sign involved does not conform to the article. In the event that the appeal is not made in writing to the Board of Appeals within such ten-day period, a variance shall not be granted. The Board of Appeals shall take action on any variance request within 60 days of receipt of the variance application. The Town Building Inspector shall comply with and enforce the Board of Appeals decision.

## § 525-44. Legal nonconforming signs.

- A. Existing signs which were constructed in compliance with a previously existing ordinance shall be considered a special exception pursuant to § 525-20. Any modification or change to such a sign shall require approval according to the terms of this article.
- B. Maintenance and damage. Reasonable maintenance may be performed on legal nonconforming signs provided that such signs are not relocated, expanded, enlarged, repositioned or raised in height. If a legal nonconforming sign is relocated, expanded, enlarged, repositioned, raised in height or to an extent exceeding 50% of the reproduction or is removed by any means whatsoever, including an act of God, when such sign is restored, reconstructed, altered or repaired it must conform with the provisions of this article. Nothing in this article shall relieve the owner or user of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this article regarding safety, maintenance and repair of signs.
- C. Change in ownership. Any change in ownership or tenancy of premises which is accompanied by any change in the signs for the premises shall necessitate that the signs for the premises be brought into compliance with the provisions of this article.
- D. Projecting signs, public property. Projecting signs which overhang public property, including streets and public sidewalks, are prohibited, unless such signs are installed and maintained pursuant to a validly granted encroachment agreement from the Town and shall be considered to be nonconforming signs.
- E. Projecting signs, indemnification for sign installation and maintenance. All persons engaging in the installation or maintenance of signs which involves in whole or in part the erection, alteration, relocation, maintenance of a sign or other sign work in, over or immediately adjacent to a public right-of-way or public property, when such property is used or encroached upon, shall agree to hold harmless and indemnify the Town, its officers, agents and employees from any and all claims resulting from erection, alteration, relocation, maintenance of the sign or any other sign work insofar as this chapter has not specifically directed the placement of the sign.

## § 525-45. Revocation of permits.

The Town Building Inspector or delegated representative shall have the authority to revoke any sign permit upon determination that the sign authorized by the permit has been constructed or is being

maintained in violation of the permit or the provisions of this article.

## § 525-46. Removal of signs.

- A. The Town Building Inspector or delegated representative is authorized to remove any illegal sign as defined by this article. For any such sign not located on public land, before taking action to require removal of any such illegal sign, the Town Building Inspector or delegated representative shall give a written compliance notice to the holders of the permit for the sign, or if no permit has been issued, to the owner(s) of the premises on which such sign is located and to the lessee(s) of the premises to which such sign pertains. The notice shall state the grounds for removal, specifying the deficiencies or defects in such sign with reasonable definiteness, and the violations charged, if any. Such notice shall specify what repairs, if any, will make the sign conform to the requirements of this article and specify that the sign must be removed or made to conform with the provisions of this article within a specified time period. Service of notice shall be made on the parties specified above as follows:
- (1) By mailing via regular mail a copy of the notice to such parties; or
  - (2) By personally delivering copies of the notice to such parties; or
  - (3) By leaving a copy of the notice with any person in charge of the premises; or
  - (4) In the event that no such person can be found on the premises, by affixing a copy of the notice in a conspicuous position at an entrance on the premises.
- B. The Town Building Inspector or delegated representative may, in his discretion, cause any signs which are of immediate peril to persons or property to be removed and destroyed summarily and without notice, and also at the expense of the owner of the sign or premises upon which the sign is located.
- C. The cost associated with any removal performed by the Town may be assessed as a charge against the property pursuant to the provisions of § 66.0627 of the Wisconsin Statutes.

## § 525-47. Illumination.

- A. No illuminated sign may directly face an adjacent residential district.
- B. Electronic message board brightness shall be determined pursuant to rules and standards established by the Town Plan Commission.
- C. The use of LED "rope lights," holiday string lights, or any other similar type of stringed lights or illuminating device, whether pulsating, blinking, flashing, or otherwise changing in light intensity, brightness, or color or in a steady, constant, nonfluctuating or nonundulating manner, whether attached to or suspended from any commercial or industrial building or structure, or portion thereof, whether outside the building or structure or inside the building or structure and intended to be visible from the outside, or attached to any sign as an element of that sign or attached to the sign structure, is prohibited on commercial and industrial buildings. An exception is provided for non-LED "rope lights," string lights, or any other similar type of non-LED stringed lights, which may be used on commercial and industrial buildings for decorative purposes only during the period from November 15 through January 2 of each year and shall be removed by the owner, agent, or person having beneficial use of the premises or lot within 10 days following written notice by the Town Building Inspector or his designee.

## § 525-48. Abandoned signs or sign structures.

Signs that are on premises which becomes vacant or unoccupied for a period exceeding 30 days shall be presumed to have been abandoned, and it shall be the responsibility of the owners of record to have such sign structures or supports removed within 45 days of receiving notice from the Town Building Inspector.

## § 525-49. Penalties.

General penalty provisions shall apply to any violation of this chapter, and each day such violation continues is a separate violation. Double fees may be assessed where work is performed without the proper permit.

## § 525-50. Requirements and procedures.

### A. Requirement of permit.

- (1) An owner or occupant must obtain a sign permit before the erection, re-erection, construction, alteration, placement or relocation of any sign, except as otherwise provided in this article.
- (2) A permit shall not be required for the following signs or activities:
  - (a) Name plate signs for single-family residence;
  - (b) Relocation of signs if required by the Town;
  - (c) Election signs as permitted herein;
  - (d) Window signs;
  - (e) Address markers/signs on a wall or awning sign;
  - (f) Flags, provided that not more than two flags per business site are displayed at any time. Banners are not considered flags for purpose of this article;
  - (g) Signs located in the interior of a building;
  - (h) Directional signs;
  - (i) Temporary signs not exceeding six feet in height and six square feet in area in residential districts.

B. Address markers located on a wall or located on an awning do not count against the allowed number or allowed total footage of signs.

C. Nothing contained herein shall prevent the erection, construction, placement, maintenance or location of official traffic, fire and police signs, signals, devices and markings of the state and the Town or other public authorities, or the posting of notices required by law.

### § 525-50.1. Construction requirements.

- A. Wind load and dead load requirements. All signs shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of area and shall be constructed to receive dead loads as required in the building code or other ordinances of the Town. Structural analysis by a registered engineer may be required by the Town Building Inspector in his sole discretion at any time prior to or after a sign permit has been issued.
- B. Illumination. Illumination shall be so installed to avoid any glare or reflection into any adjacent property, or onto a street or alley to create a traffic hazard as determined by the Town Building Inspector.

## § 525-50.2. Prohibited lighting, movement and signs.

- A. Bare light bulbs are not permitted. No flashing, blinking or rotating lights are permitted for any sign.
- B. Signs that move by any means are not permitted, except flags.
- C. Prohibited signs. It is unlawful to erect or maintain the following signs:
  - (1) Billboards;
  - (2) Distracting signs, including animated, mechanical and audible;
  - (3) Marquees;
  - (4) Signs overhanging Town right-of-way, except as provided pursuant to § 525-44 above;
  - (5) Portable signs;
  - (6) Off-premises signs;
  - (7) Roof signs; and
  - (8) Window signs in excess of 20% net window area.

## § 525-50.3. Location requirements.

- A. Obstruction of exits. No sign shall be constructed or maintained so as to obstruct any door, window, stairway or fire escape of any building.
- B. Signs prohibited within or in proximity to limits of any street or highway.
  - (1) No sign shall be erected, placed, located or maintained within the limits of any street or highway unless approved by the Town Plan Commission. Street or highway limits include all the dedicated right-of-way, encompassing the traveled portion of the highway, the shoulders, ditches and adjacent dedicated areas.
  - (2) The Town Building Inspector or delegated representative may cause any signs which are in violation of this section to be removed and destroyed summarily and without notice, and also at the expense of the owner of the sign or premises upon which the sign is located.

## § 525-50.4. Maintenance.

Each sign, including those specifically exempt from the permit requirements of this article, shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant material. The Town Building Inspector or delegated representative shall have the discretion and authority at any time to inspect and order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or change in local conditions.

## § 525-50.5. Permitted signs by type.

- A. Banners.
  - (1) Maximum size. Banners shall not exceed 32 square feet in area.
  - (2) Banners shall not be freestanding.

- (3) Banners shall not be illuminated.
- (4) No more than one banner per street frontage may be displayed at any time.
- (5) Permits for banners shall expire after 30 days unless an extension is otherwise approved by the Town Building Inspector.
- (6) Not more than four permits per business per calendar year shall be allowed. Permits may not be consecutive and at least 30 days shall have elapsed between permits.

B. Temporary signs.

- (1) Maximum size. Temporary signs shall not exceed 12 square feet in size nor six feet in height.
- (2) Temporary signs shall be set back a minimum of five feet from the front or side lot line.
- (3) Only one temporary sign permitted per premises.
- (4) The sign may be double-faced.
- (5) Signs may be displayed for only 60 days. No permit is required.

C. Awnings.

- (1) Maximum size. The width of signage on an awning shall not exceed 60% of the width of the awning.
- (2) No awning, or similar structure, whether adjustable or rigidly attached, shall be less than eight feet from its lowest edge to the established grade below.
- (3) The entire projection of the awning, or other similar structure cannot extend more than six feet from the building.
- (4) Any signage on an awning or other similar structure is limited to business identification.
- (5) An awning sign may be internally illuminated.

D. Changeable copy signs. Changeable copy signs including electronic message boards are permitted as follows:

- (1) Maximum size. Twenty-four square feet when placed within five feet of the right-of-way.
- (2) Only one changeable copy sign permitted per business premises.
- (3) The sign may be double-faced.
- (4) The copy may only be changed once per hour.
- (5) A changeable copy sign may be illuminated.
- (6) Animation, flashing or distracting features are prohibited.
- (7) Changeable copy signs shall be a part of a permanent sign.
- (8) Illumination levels must be adjustable and may not be of such brightness that they unreasonably disturb or interfere with ordinary activities in the vicinity of the sign. The Town Building Inspector may direct changes in the illumination level for any specific sign, in order to implement this provision.

E. Directional signs.

- (1) Maximum size. Signs shall not exceed six square feet in area.
- (2) One single or double-faced sign shall be permitted for each driveway and/or each 5,000 square feet of lot area.

- (3) Signs located within 50 feet of the property line shall be no higher than four feet.
- (4) Directional signs may be illuminated.
- (5) A permit is not required.

F. Freestanding signs.

- (1) Maximum size. Twenty-four square feet when placed within five feet of the lot line; 32 square feet when placed beyond five feet of the lot line.
- (2) Vision and setback. The sign box may be at lot line but must be a minimum of eight feet above grade and any supports must be a minimum of five feet from the lot line.
- (3) A freestanding sign may be double-faced.
- (4) The maximum height of a freestanding sign shall not exceed 14 feet.
- (5) A freestanding sign may be illuminated.
- (6) Only one sign permitted per business site.

G. Monument signs.

- (1) Maximum size. Thirty-two square feet when placed between five feet and less than 10 feet from the lot line; 100 square feet when placed 10 feet or more from the lot line.
- (2) Signs shall be set back a minimum of five feet from the front and side lot lines.
- (3) Maximum height shall not exceed eight feet for a horizontally orientated sign. Maximum height shall not exceed 14 feet for a vertically orientated sign. No more than two feet of that maximum height may be considered as base.
- (4) A monument sign may be double-faced.
  - (a) When the angle between the sign faces measures 45° or less, the total sign area shall be computed by measuring the square footage of a single face.
  - (b) When the angle between sign faces measures greater than 45°, the total sign area shall be computed by measuring the square footage of each face.
- (5) One monument sign is allowed for each street frontage. If a business is entitled to two monument signs under this code, two monument signs may be placed on the same street if they are placed at least 200 feet apart.
- (6) A monument sign may be illuminated.

H. Projecting signs.

- (1) Maximum size. A projecting sign shall not exceed 100 square feet in area.
- (2) Such sign shall not be less than eight feet from its lowest edge to the established grade.
- (3) No projecting sign may extend out more than four feet from the building to which it is attached or from which it projects and shall not extend over the lot line unless an encroachment is approved by the Town Plan Commission.
- (4) The maximum height of such sign shall be no more than the height of the rooftop or the top of the parapet wall of the building in which it is located.
- (5) Projecting signs may be illuminated.
- (6) Only one sign shall be permitted per ground floor business premises.

I. Time/temperature signs.

- (1) One time/temperature sign is allowed per business premises.
- (2) The maximum size of a time/temperature sign is 12 square feet.
- (3) The maximum height of a time/temperature sign is 14 feet.
- (4) Time/temperature signs must be part of a permanent sign.

J. Wall signs.

- (1) A wall sign shall not exceed 100 square feet in area. Exception: When the building is more than 50 feet from the front lot line the maximum size equals 100 square feet plus one square foot for every foot over 50 that the building is set back from the lot line.
- (2) Two or more signs that individually fall within the size limits set by this section may not be combined to form one larger sign that would be larger than this section allows. Such signs shall be placed far enough apart so that the signs are easily identifiable as separate signs.
- (3) No part of a wall sign shall extend above the roof line unless it is erected on a parapet wall or fascia which extends above the roof line of a flat roof on at least three sides of a building.
- (4) The face of a wall sign may not project more than 12 inches from the wall.
- (5) A wall sign that identifies a business must be placed on the wall of the structure which the business occupies.
- (6) Wall signs may be illuminated. Wall signs may not be flashing or otherwise distracting as defined in § 525-41.

K. Window signs.

- (1) A window sign shall not cover more than 20% of total net glazed front window area per business premises.
- (2) A window sign shall not be placed on glass doors or window areas that will impede pedestrian safety or prohibit view by police.

L. Other signs. The Town Building Inspector or delegated representative shall have the authority to approve temporary signs in cases of exceptional circumstances; an example of exceptional circumstances would be grand opening, special event, building construction, remodeling or road construction.

## § 525-50.6. Signs permitted by district.

A. Permitted signs in agricultural districts (AED and AGD).

- (1) One sign, not exceeding 32 square feet in area, identifying the premises or establishment and one wall sign not exceeding 100 square feet in area, or 80% of the smallest side of a structure on the parcel, whichever is less.
- (2) One temporary sign for a period not to exceed 60 days.

B. Permitted signs in residential districts (RSF, RTF and RMF). All signs are prohibited in residential districts except the following. This does not apply to uses requiring a special use permit, in which case size and location shall be determined by the Town Plan Commission.

- (1) One subdivision identification sign limited to 40 square feet in area.
- (2) One temporary sign for a period not to exceed 60 days per premises. No temporary sign shall be erected within 10 feet of any adjacent side yard. No permit is required for a temporary sign.



- (3) In connection with any public or semipublic institution, the following signs are permitted: one identification sign limited to 30 square feet in area, one bulletin board limited to 20 square feet in area and not more than two temporary signs or banners limited to a combined area of 30 square feet in connection with special events, provided that no such sign or banner shall be displayed for a period of more than two weeks.

[Amended 9-22-2020 by Ord. No. 2020-01]

- (a) These signs may be a changeable copy, freestanding and monument sign.
  - (b) Two or more signs that individually fall within the size limits set by this section may be combined to form one larger sign.
- (4) No sign in a residential district shall exceed eight feet in height or produce artificial light from within.

C. Permitted signs in Local Commercial and Regional Commercial Districts (CL and CR).

- (1) Total amount of square footage allowed. The gross allowable sign square footage allowed for each premises in the Local Commercial or Regional Commercial Districts shall not exceed the lineal building front footage multiplied by 1 1/2 square feet. The owner of the business site is responsible for dividing the gross allowable sign square footage among all occupants of a multi-use building.
- (2) Total number of signs.
  - (a) Subject to Subsection **C(1)** of this section, each business premises located on the ground floor of a multi-use building may have either a wall sign or an awning sign not exceeding the lineal front footage of the business premises multiplied by 1 1/2 square feet. If the business premises is located on a corner of an arterial street, it may have an additional sign subject to Subsection **A** of this section. Each multi-use building that has separate signs for any of its tenants, may have only two signs, in addition to the signs allowed for the tenants under this subsection.
  - (b) Each business site that does not have separate signs for its tenants, may have only two signs unless one of the signs is a monument type in which case three signs are allowed.
  - (c) Each business site with over 300 feet of lot frontage may have an additional sign so long as the total amount of signage allowed under Subsection **A** of this section is not exceeded.
  - (d) Gasoline service station. Price signs are limited to 12 square feet in area and there may not be more than two price signs per business site. These signs are exempt from signage calculation.
  - (e) Restaurants with drive-through facilities may have informational signs not exceeding six feet in height and 32 square feet in area.

D. Permitted signs in Planned Commercial District (CP).

- (1) For each development: one general identification sign limited to 100 square feet in area for each frontage development. Maximum height shall be 25 feet as measured from grade.
- (2) For each lot: signs as permitted within the Local Commercial and Regional Commercial Districts.

E. Permitted signs in Industrial District (IND).

- (1) Total amount of square footage allowed. The gross allowable sign square footage allowed for each premises in the Local Commercial or Regional Commercial Districts shall not exceed the lineal building front footage multiplied by 1 1/2 square feet. The owner of the business site is responsible for dividing the gross allowable sign square footage among all occupants of a multi-use building.

## (2) Total number of signs.

- (a) Subject to Subsection **E(1)** of this section, each business premises located on the ground floor of a multi-use building may have either a wall sign or an awning sign not exceeding the lineal front footage of the business premises multiplied by 1 1/2 square feet. If the business premises is located on a corner of an arterial street, it may have an additional sign subject to Subsection **A** of this section. Each multi-use building that has separate signs for any of its tenants, may have only two signs, in addition to the signs allowed for the tenants under this subsection.
- (b) Each business site that does not have separate signs for its tenants, may have only two signs unless one of the signs is a monument type in which case three signs are allowed.
- (c) Each business site with over 300 feet of lot frontage may have an additional sign so long as the total amount of signage allowed under Subsection **A** of this section is not exceeded.
- (d) Gasoline service station. Price signs are limited to 12 square feet in area and there may not be more than two price signs per business site. These signs are exempt from signage calculation.
- (e) Restaurants with drive-through facilities may have informational signs not exceeding six feet in height and 32 square feet in area.

## Article VIII. Off-Street Parking and Loading

[1] *Editor's Note: This article contains original Secs. 63-06(8) and 63-06(9), as well as the subsections pertaining to off-street parking that originally appeared in Secs. 63-05(4) through 63-05(10).*

### § 525-51. Off-street parking.

- A. Requirements not specified. Parking requirements for a use not specified shall be the same as required for a use of similar nature, or sufficient off-street parking shall be provided such that no public street shall be used for parking.
- B. Fractional spaces. Where computation of the required parking spaces results in a fractional number, only the fraction of 1/2 or larger shall be counted as one.
- C. Changes in buildings or use. Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of 25% or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of 50% or more in floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.
- D. Mixed uses. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the uses computed separately.
- E. Joint use. Two or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided such uses are not operating during the same hours. A written agreement shall accompany any joint use arrangement.
- F. Off-lot parking. Required off-street parking spaces shall be located on the same lot with the principal use or, when this requirement cannot be met, such parking spaces may be located off lot, provided the parking spaces are located in the same district. Off-lot parking spaces must also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement. Off-lot parking spaces for residential uses shall be within 200 feet of the principal entrance or the entrance for the individual occupants for whom the spaces are

reserved, while the farthest portions of a parking lot for all other uses shall be within 300 feet of the entrance of the establishment.

- G. Off-street parking measurement. Floor space or area shall mean the gross floor area inside exterior walls, where floor space is indicated on the Schedule of District Regulations as a basis for determining the amount of off-street parking required.
- H. Design standards. Each required off-street parking space shall have a stall width of at least nine feet and have a stall length of at least 18 feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: 11 feet for thirty-degree parking; and 20 feet for ninety-degree parking. Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet. No parking area of more than four spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five spaces shall be sufficiently screened in the former of a solid fence or shrubbery to protect any adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands. All parking areas shall be surfaced with a durable, dustproof surface consisting of concrete or bituminous concrete or of compacting gravel or crushed stone properly sealed and surface treated.

## § 525-52. Off-street loading.

- A. Loading space requirements. The loading space requirements specified in the following table shall apply to all districts:

<b>Use</b>	<b>Floor Area (square feet)</b>	<b>Loading Spaces</b>
Retail, wholesale, warehouse, service, manufacturing and industrial establishments	2,000 to 10,000	1
	10,000 to 20,000	2
	20,000 to 40,000	3
	40,000 to 60,000	4
	Each additional 50,000	1
Hotels, offices, hospitals and places of public assembly	5,000 to 10,000	1
	10,000 to 50,000	2
	50,000 to 100,000	3
	Each additional 25,000	1
Funeral homes	2,500 to 4,000	1
	4,000 to 6,000	2
	Each additional 10,000	1

- B. Multiple or mixes uses. Where a building is devoted to more than one use or for different uses, and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- C. Location. Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within 30 feet of the nearest point of intersection of two streets or require any vehicle to back into a public street.
- D. Design standards. Each off-street loading space shall have a width of at least 12 feet, a length of at least 45 feet, and a vertical clearance of at least 14 feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to 10 feet in width, 25 feet in length, and eight feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect any neighboring residence.

## § 525-53. RSF District.

Off-street parking requirements.

- A. Dwellings: 1.5 per unit.
- B. Churches: 1 per 3 fixed seats.
- C. High schools: 1 per 3 students plus 1 per employee.
- D. Elementary school, junior high school, day nurseries: 1 per employee.
- E. Libraries, exhibits, community centers: 1 per 3 persons of maximum capacity.
- F. Convalescent home, children's home, nursing home: 1 per 4 beds plus 1 per employee.

## § 525-54. RTF District.

Off-site parking requirements: applicable requirements as specified in the RSF District.

## § 525-55. RMF District.

Off-street parking requirements: applicable requirements as specified in the RSF District.

## § 525-56. CL District.

Off-street parking requirements.

- A. Retail and service establishments (except restaurants) and business and professional offices: 1 per 200 square feet of floor area.
- B. Taverns and restaurants (except drive-in restaurants): 1 per 100 square feet of floor area.
- C. Drive-in restaurants: 1 per 50 square feet of floor area.
- D. Hotels and motels: 1 per sleeping room plus parking requirements for taverns of restaurants as applicable.
- E. Clubs and organizations, mortuaries, theaters and other recreational establishments: 1 per 3 persons of maximum capacity.
- F. Printing and publishing and light industrial: 1 per employee.
- G. Convalescent or nursing homes: 1 per 4 beds plus 1 per employee.
- H. Wholesale and warehouse establishments: 1 per 300 square feet of floor area.

## § 525-57. CR District.

Off-street parking requirements: off-street parking requirements as specified in the CL District.

## § 525-58. CP District.

Off-street parking requirements.

- A. As specified in the CL or CR District.
- B. Auditoriums and convention centers: 1 per 3 persons of maximum capacity.

## § 525-59. IND District.

Off-street parking requirements.

- A. Applicable parking requirements as specified in the CR District.
- B. Manufacturing: one per employee on maximum shift.

## Article IX. Special Provisions

### § 525-60. General application.

Requirements for uses and structures specified in this article shall apply to such uses and structures whether permitted by right or by special exception.

### § 525-61. Accessory dwellings.

- A. Intent. It is the intent of the accessory dwelling provisions to provide for housing options for the extended family and certain specified segments of the population. These regulations are established to permit modification of single-family dwellings to include an accessory dwelling unit to be occupied by no more than two persons who are handicapped, over the age of 60, or related to the owner-occupant.
- B. Mandatory owner occupancy. The owner of the single-family residence must occupy either the principal residence or the accessory residence.
- C. Nature and scale of accessory unit. An accessory dwelling may be a separate, complete housekeeping unit; provided, however, that it is substantially contained within the subordinate part thereof. Permissible modifications to the structure are a limited extension of the structure to the rear and the creation of a separate entrance at the side or rear. The accessory apartment shall not exceed 600 square feet of floor area or 25% of the entire floor area of the dwelling, whichever is greater. Any external modification shall be done with a design and materials similar in appearance to the principal structure such that, to the maximum extent possible, the external appearance of the dwelling will remain as a single-family dwelling.
- D. Dimensional requirements. Maximum lot coverage and maximum height requirements, as well as minimum yard requirements in the RSF District shall be met.

### § 525-62. Resource extraction.

- A. Intent. It is the intent of this chapter to permit resource extraction uses in outlying areas as a temporary or transitional use with assurances that later reuse for other permissible uses and structures is possible.
- B. Existing operations. The requirements of this section shall not apply to existing operations only where more than 50% of the area (excluding setbacks required herein) of a parcel of record has been excavated at the time of adoption of this chapter. Where less than 50% of the area has been excavated, any extension of operations within the parcel or on adjacent parcels shall comply with the requirements of this section including restoration for the entire parcel(s).

- C. Uses and operations. Permitted uses or operations shall include the removal for sale or processing of timber, natural vegetation, topsoil, fill, sand, gravel, rock or any mineral. Processing may include crushing, washing or refining. Storing or stockpiling of such materials on the site is permissible. Permissible uses may also include concrete or asphalt manufacturing.
- D. Area and setback requirements. The parcel shall consist of a minimum of five acres with dimensions sufficient to adequately accommodate the proposed uses with minimum adverse effects on adjacent lands. No operations shall be permitted within 100 feet of any exterior boundary of the tract or within 250 feet of any building intended for human occupancy existing at the time of permit application. For operations involving blasting, processing or manufacturing, the Plan Commission may increase required setbacks as a condition of approval.
- E. Location. Location shall be appropriate to existing development and development which may reasonably be expected within the time period specified herein for permits. The site shall be so located as to make it unnecessary to conduct trucking operations on any platted street in a residential subdivision.
- F. Plan of operation. Each application for a special exception shall be accompanied by a plan of operation for the site including the following information:
- (1) Statement of ownership of the parcel and control of the operations.
  - (2) Extent of the area to be excavated.
  - (3) Location, width and grade of all easements or rights-of-way on or abutting the parcel.
  - (4) Existing topography by five-foot contour intervals; existing watercourses and drainageways; existing vegetation and soils; depth to groundwater as indicated by at least four borings; and existing buildings or structures.
  - (5) Cross section showing extent of sand and gravel deposits and the water table.
  - (6) Estimated type and volume of excavations; method(s) of extracting and processing; and the sequence of operations.
  - (7) Proposed equipment and proposed locations of equipment; proposed areas for ponding; proposed drainage modifications; proposed processing and storage areas; proposed interior roads and ingress and egress to the site; and proposed areas for the disposition of overburden of topsoil.
- G. Plan of restoration. Each application for a special exception shall be accompanied by a plan of restoration for the site including the following information:
- (1) A statement on the planned restoration, including phasing and timing of the restoration process and reuse of the site.
  - (2) A plan showing fill methods and materials; final contours of the site; proposed roads within the site; the location of any water bodies or watercourses within the restored area; landscaping or vegetative planting; and areas of cut and fill.
  - (3) The method of disposing of any materials, equipment or buildings on the site.
- H. Time limitations. No special exception permit shall be issued for a period exceeding eight years, consisting of not more than six years for the operational phase and not more than two years for the restoration phase. Upon expiration of the operational phase, the applicant may request and receive extensions of this phase for three-year periods unless changing conditions indicate the extension will be detrimental to the public health, safety and welfare. Any extension shall require the submission of a new plan of restoration if the operation is extended or enlarged. If such extension is denied, the applicant shall complete the restoration phase within the two-year time period specified.
- I. Financial assurance. To ensure completion of the restoration phase, as proposed within the two-year time period, each applicant shall submit a performance bond or other financial guarantee

sufficient in amount to cover the restoration expense relative to the proposed operation or extension thereto.

## § 525-63. Planned Unit Development (PUD).

[Amended 8-18-2009 by Ord. No. 2009-05]

- A. Intent. The intent of the planned unit development provisions is to encourage quality and desirable development by allowing for greater flexibility and design freedom than that permitted under basic district regulations. These regulations are established to permit and encourage diversification, variation and imagination in layout of development; to encourage the preservation of open space; and to encourage more rational, economic development with respect to the provisions of public services.
- B. Unified control. All land included for development as a PUD shall be under the legal control of the applicant, whether that applicant be an individual, partnership, or corporation or group of individuals, partnerships or corporations. Applicants requesting approval of a PUD shall present firm evidence of unified control of the entire area within the proposed PUD together with evidence that the developer has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provisions of this chapter. The applicant shall state agreement to:
  - (1) Proceed with the proposed development according to the provisions of these zoning regulations and such conditions as may be attached to the special exception for PUD.
  - (2) Provide agreements, contracts and deed restrictions necessary for completion of the development according to the approved plans.
  - (3) Bind their successors in title to any commitments made in the approval process.
- C. Permitted uses. All the permitted uses of the RMF, CL, CP and IND Zoning Districts in which the PUD is located, to allow for more development flexibility.
- D. General requirements. All permitted uses shall be subject to the accessory use and structure, sign, height and parking requirements of the district in which it is located.
- E. Area and density requirements. A tract of land proposed for development as a planned unit development shall contain a minimum area of two acres and a maximum density of 12 dwelling units per net acre.
- F. Internal lots and frontage. Within the boundaries of the PUD, no minimum lot size or minimum yards shall be required; provided, however, that no structure shall be located closer to any peripheral property line than a distance equal to the height of such structure.
- G. Access. Every dwelling unit shall have access to a public street either directly or via an approved private road, pedestrianway, court or other area dedicated to public or private use or common element guaranteeing access. Permitted uses are not required to front on a dedicated public street.
- H. Engineering design standards. Normal standards or operational policy regarding right-of-way widths, provision for sidewalks, streetlighting and similar environmental design criteria shall not be mandatory in a planned unit development, but precise standards shall be made a part of the approved plan and shall be enforceable as a part of this chapter.
- I. Procedures for approving planned unit developments.
  - (1) Preapplication review.
    - (a) Before submitting an application for a PUD, an applicant shall confer with the Plan Commission, Town staff and other Town department heads, if required, in connection with the preparation of the application for a planned unit development.

- (b) The purpose of the preapplication conference shall be to familiarize both the applicant and the Plan Commission with each other's intentions with respect to the PUD before the applicant enters into binding commitments or incurs substantial expense.
  - (c) At the preapplication conference, the Plan Commission shall familiarize the applicant with the PUD process and explain to the applicant issues that should be considered in planning the project. The applicant shall inform the Plan Commission of his development concept through general outlines and sketch plans. Any statement made by either the Plan Commission or the applicant concerning potential disposition of a PUD application or the final form of the development shall not be legally binding.
- (2) Development plan. A development plan shall accompany the application for a special exception permit and contain the following information:
- (a) Names of the owners and developer.
  - (b) Scale, date, North arrow.
  - (c) Existing streets, buildings, watercourses, easements and utility lines.
  - (d) Proposed pattern of public and private streets, accessways and parking areas.
  - (e) Locations and arrangements of lots,
  - (f) Buildings by dwelling types, open space areas and recreational facilities, if any.
  - (g) Architectural drawings and sketches illustrating the design and character of the various buildings proposed.
  - (h) Appropriate statistical data on the size of the development, number of dwellings by type, percentage of open space and other data pertinent to review.
  - (i) General outline of deed restrictions and other documents pertaining to the development, operation and maintenance of the project.
- (3) Plan approval. Upon approval of a development plan, a special exception permit shall be issued. All terms, conditions and stipulations made at the time of approval shall be binding upon the applicant or any successors in interest.
- (4) Preliminary and final plans. Approval of a development plan for a special exception does not constitute preliminary or final plat approval. Preliminary and final plats shall be submitted and processed in accordance with standard subdivision review procedures.
- (5) Changes in plan. Minor changes in plans shall be made by application and follow procedures pursuant to Article XII. Minor changes shall not be considered a reapplication for special exception permit. Substantial changes in plans shall be made by application and processed as a new application for a special exception permit.
- (6) Deviations from approved plans. Deviations from approved plans or failure to comply with any requirement, condition or safeguard during approval or platting procedures shall constitute a violation of these zoning regulations.
- J. Building permits. Final approval does not constitute approval for the construction of individual buildings or structures in the development. Application for building permits shall be submitted and processed in accordance with standard procedures.

## § 525-64. (Reserved)

[1] *Editor's Note: Original Sec. 63-07(5), Cluster subdivision, was repealed 8-17-2010 by Ord. No. 2010-03.*



## § 525-65. Industrial development.

- A. Intent. It is the intent of this section to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control, and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects.
- B. Standards of operations.
- (1) Vibration. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the Industrial District boundaries. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. Vibrations not directly under the control of the property uses and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.
  - (2) External lighting. No operation or activity shall produce any intense glare or lighting with the source directly visible beyond the Industrial District boundaries.
  - (3) Odor. No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor, as defined in Ch. NR 429, Wis. Adm. Code.
  - (4) Particulate emissions. No operation or activity shall emit any particulate matter into the ambient air which exceeds the limitations as established in Ch. NR 415, Wis. Adm. Code.
  - (5) Visible emissions. No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Ch. NR 431, Wis. Adm. Code.
  - (6) Hazardous pollutants. No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Ch. NR 445, Wis. Adm. Code.
- C. Administration. Determinations necessary for the administration and enforcement of these standards range from those which can be made by a reasonable person using normal senses and no mechanical equipment to those requiring substantial technical competence and complex equipment. It is the intent of this section that the methods to be used in determining compliance shall be the responsibility of the Building Inspector and Zoning Administrator, subject to the following procedures:
- (1) Approval of building permits. Prior to approving a building permit for any industrial use or any change thereof, the Building Inspector and Administrator shall have received from the applicant evidence or assurance that the proposed use or changing use will satisfy the air quality, vibration and exterior lighting standards of this chapter.  
[Amended 8-17-2010 by Ord. No. 2010-03]
  - (2) Violation of standards. Whenever the Building Inspector or Administrator have reason to believe the air quality, vibration and exterior lighting standards of this chapter have been violated, written notice shall be made by certified mail to the person or persons responsible for the alleged violation. Such notice shall describe the alleged violation and shall require an answer or correction of the alleged violation within 30 days. Failure to reply or correct the alleged violation within 30 days may cause lawful action to be taken to cause correction as provided in this chapter or referral of the alleged violation to the Wisconsin Department of Natural Resources.

## Article X. Administration and Enforcement

## § 525-66. Town Zoning Administrator.

The provisions of this chapter shall be administered and enforced by the Town Zoning Administrator (hereinafter referred to as the "Administrator"). The Administrator is authorized to act through aides and assistants. In the performance of the duties of the office of Zoning Administrator, the Administrator may request the assistance of any appropriate officer or agency of the County or State of Wisconsin.

## § 525-67. Administrator duties and powers.

The Administrator shall have the following duties and powers:

- A. Examine all applications for building permits and, if necessary, advise the Town Building Inspector as to the provisions of this chapter and arrange for corrections to be made to ensure compliance with this chapter, and, for applications for building permits for any structure requiring connection to a private domestic sewage treatment and disposal system, advise the Town Building Inspector as to whether a system satisfying all applicable codes already exists or that all permits necessary to install such a system have been obtained. All permits shall be examined to ensure any proposed construction will not interfere with a functioning private domestic sewage treatment and disposal system.
- B. Examine all applications for special exceptions and building permits which require submittal and approval of a site plan under Article **XII** of this chapter and refer such applications to the Plan Commission. Special exception permits and building permits which require site plan approval shall only be issued upon order of the Plan Commission.
- C. Receive all applications for a special exception, interpretation, appeal and/or variance and refer such applications to the Plan Commission or Board of Appeals. A variance shall only be issued upon order of the Board of Appeals.  
[Amended 11-13-2018 by Ord. No. 2018-08]
- D. Conduct inspections to determine compliance or noncompliance with the provisions of this chapter.
- E. Issue stop-work, cease and desist orders, and orders requiring the correction of all conditions found to be in violation of the provisions of this chapter. Such written orders shall be posted on the property in a conspicuous place and/or served personally or by certified mail upon persons deemed by the Administrator to be in violation of the provisions of this chapter. It shall be unlawful for any persons to violate any such order issued by the Administrator.
- F. Institute in the name of the Town any appropriate action or proceedings to prevent violations of this chapter.
- G. Revoke by order any building permit approved under a misstatement of fact or contrary to the provisions of this chapter.
- H. Maintain maps of all special exceptions and maintain a file on each.
- I. Upon request of the Town Board, Plan Commission, or Board of Appeals, present to such persons or bodies facts, records or reports which they may request to assist them in making decisions, or assist them in any other way as requested.  
[Amended 11-13-2018 by Ord. No. 2018-08]
- J. Maintain a map or maps showing the current zoning classification of all lands under the jurisdiction of this chapter. The Administrator shall also ensure that a current copy of the Official Zoning Atlas is available for public inspection.<sup>[1]</sup>  
[Amended 8-17-2010 by Ord. No. 2010-03]

[1] *Editor's Note: Original Sec. 63-08(2)(k), which immediately followed this subsection, was repealed 8-17-2010 by Ord. No. 2010-03.*

## § 525-68. Town Building Inspector.

- A. Upon adoption of this chapter, the Town shall appoint a Town Building Inspector. The Town Building Inspector shall not be a deputy to the Zoning Administrator.
- B. Town Building Inspector's duties and powers.
  - (1) Receive and examine all applications for building permits and forthwith transmit copies of all such applications to the Administrator.
  - (2) Issue building permits only where there is compliance with the provisions of this chapter. Building permits for structures requiring connection to a private domestic sewage treatment and disposal system shall be issued only where there is compliance with applicable sanitary codes. Building permits which require site plan approval under Article **XII** of this chapter shall only be issued by order of the Plan Commission. Building permits for development in the floodplain, shoreland and wetland jurisdiction of the Town of Buchanan shall not be issued until approved by the Zoning Administrator.
  - (3) Receive and forthwith transmit to the Administrator all applications for building permits which require site plan approval under Article **XII** of this chapter.
  - (4) Conduct inspection to determine compliance or noncompliance with the provisions of this chapter and report any violations of this chapter to the Administrator and the Town Board.

## § 525-69. Remedies.

Compliance with the provisions of this chapter shall be enforced by appropriate fines and penalties. Compliance may also be enforced by injunctive suit of the Town or by the owner or owners of real estate within the district affected by the regulation.

## § 525-70. Violations and penalties.

[Amended 8-17-2010 by Ord. No. 2010-03]

Any person who violates any provision of this chapter or any order, rule or regulation made hereunder shall, upon conviction, forfeit not less than \$10 nor more than \$500 for such offense, together with the costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense.

## § 525-71. Notice of violation.

[Amended 8-17-2010 by Ord. No. 2010-03]

If the Administrator finds that any of the provisions of this chapter are being violated, he/she shall notify, in writing by registered or certified mail, the person(s) responsible, indicating the nature of the violation and ordering the action necessary to correct the violation. Whenever a person shall have been notified in writing that he/she is in violation of the provisions of this chapter, such person shall commence correction of all violations within five days of notice. If such corrections are not corrected within five days of written notice, each day that a violation continues shall be considered a separate offense.

## Article XI. Building Permits

### § 525-72. Applicability.

[Amended 8-17-2010 by Ord. No. 2010-03]

No building or structure (except signs exempt from the provisions of this chapter) shall be erected, constructed, reconstructed, altered, moved or enlarged until a building permit has been obtained from the Administrator or Town Building Inspector and a fee has been paid as listed in the Town Fees and Licenses Schedule.<sup>[1]</sup>

[1] *Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator/Clerk's office.*

## § 525-73. Application for building permit.

Application for a building permit shall be made in writing upon a form furnished by the Town of Buchanan and shall include the following information:

- A. Name and address of the owner of the land and the owner of the building or structure, if different.
- B. Plot and construction plans drawn to scale, showing the actual shape and dimensions of the lot to be built upon and the exact sizes and locations on the lot of buildings or structures already existing, if any, and the exact sizes and locations on the lot of buildings or structures proposed to be erected, constructed, reconstructed, altered or enlarged.
- C. The existing and/or proposed use of all buildings or parts thereof on the lot.
- D. The number of families the building is designed to accommodate, the gross leasable floor space of the building, or the number of employees the building is designed to accommodate.
- E. The location and number of required off-street parking and loading spaces.
- F. Such other information with regard to the lot and existing or proposed buildings or structures as may be necessary to determine compliance with and provide enforcement of this chapter, including, but not limited to, a detailed plan of any existing private domestic sewage treatment and disposal system.

## § 525-74. Approval and issuance of building permit.

If the Administrator or Town Building Inspector determine that the proposed structure or building will comply with the provisions of this chapter, he/she shall officially approve and sign one set of plans and return it to the owner or applicant and shall issue a building permit which shall be kept on display at the site of the proposed building or structure.

## § 525-75. Construction to be as provided in applications.

Building permits issued on the basis of applications and plans approved by the Administrator or Town Building Inspector authorize only the use, arrangement and construction set forth in such approved applications and plans. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this chapter.

## § 525-76. Lapse of permit.

A building permit shall have lapsed and be void unless substantial construction or operations described in the permit are commenced within one year from the date of its issuance.

## § 525-77. Improper issuance.

A building permit which was issued in error or under a misstatement of fact by the applicant shall not create any right in such permit, and the Town shall be entitled to revoke such permit.

## § 525-78. Prior permits.

No building permit lawfully issued by the Administrator or Town Building Inspector prior to the effective date of adoption or amendment of this chapter shall be invalidated by the adoption or amendment of this chapter. Such permit shall remain valid and subsisting, subject only to its own terms.

## Article XII. Site Plans

### § 525-79. Applicability and procedure.

[Amended 1-20-2009 by Ord. No. 2009-01; 2-23-2016 by Ord. No. 2016-02]

- A. In addition to any other provisions contained in this chapter for site plans, site plans for all new commercial and industrial buildings and for all additions to commercial and industrial buildings in excess of 2,000 square feet shall be approved by the Town Board prior to the issuance of a building permit. Where, by the terms of this chapter, a site plan is required in connection with any use or structure, such site plan shall be submitted coincident with an application for a building permit or special exception, as the case may be. The Administrator shall forthwith circulate the site plan for comment by the Town Plan Commission and any other Town officer who may have a responsibility for or interest in an aspect of the development.
- B. Within 30 days of submittal, the Administrator shall transmit the site plan along with all pertinent comment to the Plan Commission for its consideration. Except as required in connection with a special exception, no public notice and hearing is required for site plan consideration, but such matters shall be handled in public session as part of a previously prepared agenda. All matters relating to site plan consideration shall be a public record. In cases where a site plan is submitted in connection with an application for a special exception, public notice and hearing is required. Site plan approval shall require formal action of the Town Board.
- C. Expiration of approved site plan. Unless a written extension request is submitted to and approved by the Plan Commission, an approved site plan shall expire upon either of the following conditions:
  - (1) A new site plan for the property is submitted to and approved in accordance with Subsections **A** and **B** of § 525-79.
  - (2) A building permit has not been issued within one year from the date of site plan approval.
- D. Inspection and enforcement. Before issuing a certificate of occupancy and/or zoning certificate for any use not exempted under § 525-79A, the Administrator or his/her designee shall conduct an inspection to determine compliance with the conditions set forth on the approved site plan for the project. A temporary certificate of occupancy may be issued without completion of all elements on the site plan, provided written assurance is given all improvements will be completed when feasible.

### § 525-80. Contents.

A site plan required to be submitted by the terms of this chapter shall contain the following elements, where applicable:

- A. Statements of ownership and control of the proposed development.
- B. Statement describing in detail the character and intended use of the development.
- C. A site plan containing the title of the project and the names of the project planner and developer, date and North arrow and based on an exact survey of the property drawn to a scale of sufficient size to show boundaries of the project, any existing streets, buildings, watercourses, easements and section lines; exact location of all buildings and structures; access and traffic flow; off-street

parking and off-street loading areas; recreation facilities' locations; and access of utilities and points of utility hookups.

- D. Tabulations of total gross acreage in the project and the percentages thereof proposed to be devoted to the various uses.
- E. Tabulations showing the derivation of numbers of off-street parking and loading spaces and total project density in dwelling units per gross acre.
- F. Architectural definitions for buildings in the development; exact number of dwelling units, sizes and types, together with typical floor plans of each type.
- G. Storm drainage and sanitary sewage plans.
- H. If common facilities (such as recreation areas or structures, common open space, etc.) are to be provided for the development, statements as to how such common facilities are to be provided and permanently maintained. Such statements may take the form of proposed deed restrictions, deeds of trust, homeowners' associations, surety arrangements, or other legal instruments providing adequate guarantee to the Town that such common facilities will not become a future liability for the Town.
- I. Plans for signs, if any.
- J. In the industrial districts, plans for the exterior walls of all buildings, lighting, outside storage and industrial processes and materials pertinent to conformance with the industrial performance standards herein.
- K. Such additional data, maps, plans or statements as may be required for the particular use or activity involved or as the applicant, Zoning Administrator or Plan Commission may believe is pertinent.

## § 525-81. Site plan fee.

[Amended by Ord. No. 2008-03]

Any site plan required by this article shall be accompanied by the payment of a fee as contained in the Town of Buchanan Fees and Licenses Schedule.<sup>[1]</sup>

[1] *Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator's office.*

## Article XIII. Special Exceptions

[Amended 8-17-2010 by Ord. No. 2010-03; 2-23-2016 by Ord. No. 2016-03; 8-21-2018 by Ord. No. 2018-07]

### § 525-82. General.

A special exception is a use or structure that may not be appropriate generally or without restriction throughout a district but which, if controlled as to number, area, location or relation to neighborhood, would promote the public health, safety, welfare, comfort, convenience or the general welfare. Such uses or structures may be permissible in a zoning district as a special exception only if specific provision for such use or structure is made in the district. A special exception shall not be issued for any other use or structure.

### § 525-83. Procedure.

All applications for a special exception shall be submitted to the Administrator. A site plan is required for all applications and shall be submitted coincident with the application. The application may also be

accompanied by any other material or information necessary to demonstrate that the grant of a special exception will be in harmony with the general intent and purpose of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public interest. The Administrator shall refer all applications and accompanying materials to the Plan Commission.

## § 525-84. Public hearing.

Upon the filing of an application for a special exception, the Plan Commission shall fix a reasonable time (not more than 45 days from the filing date) for a public hearing. A Class 2 notice, pursuant to Ch. 985, Wis. Stats., shall be published, specifying the date, time and place of hearing and the matters to come before the Plan Commission. Notice shall be mailed to parties in interest, as determined by the Plan Commission.

## § 525-85. Appeals.

An appeal shall be requested in writing by the applicant to the Administrator not more than 30 days from the final decision. Any hearing required under this section shall be conducted as described below.

- A. The Board of Appeals Chairperson shall open the hearing and make a concise statement of its scope and purposes. Appearances shall be entered on the record. Any official or employee of the Town of Buchanan and any other person may participate in the hearing. Any person desiring to participate in the hearing, whether on his or her own behalf or as an authorized agent or attorney, shall enter an appearance in person by giving his or her name and address, the name and address of the person being represented, and the capacity in which he or she is representing such person.
- B. Persons entering an appearance may make statements, offer evidence or ask questions concerning the matter to be heard. Such statements need not be made under oath. The Chairperson shall determine the order in which people may speak and may limit the length of the presentations if it appears there will not be enough time for all who wish to speak or if presentations are unduly repetitious. Statements may be presented in oral or written form.
- C. The hearing shall be recorded by an electronic recording device.

## § 525-86. Conditions and safeguards.

- A. Where by the terms of this chapter certain conditions and requirements are specified for a special exception use or structure, such conditions and requirements must be imposed by the Plan Commission and Town Board. In addition to the conditions and requirements specified by the terms of this chapter, the Plan Commission may recommend and the Town Board may impose appropriate additional conditions and requirements as deemed necessary to ensure the proposed use or structure will serve the objectives of this chapter and promote the public health, safety, comfort, convenience and general welfare. The requirements and conditions must be reasonable and, to the extent practicable, measurable. The requirements and conditions must be based on substantial evidence consisting of facts and information.
- B. The following general conditions and requirements shall apply to all special exception applications:
  - (1) The proposed use or structure shall be compatible in scale and intensity with surrounding property including but not limited to traffic-generated noise, lighting, hours of operation and other externalities.
  - (2) The design and layout of the proposed use are compatible with existing and future permitted uses and structures of surrounding properties. Generally, a buffered perimeter shall be provided.

(3) Ingress and egress access shall be located and designed to minimize traffic hazards and congestion.

(4) Adequate public facilities and services are available or will be provided for the proposed use.

## § 525-87. Records and decisions.

The Town Board shall keep a record of its proceedings under this section, all of which shall be filed immediately as public records. All decisions under this section shall be taken by resolution in which a majority of the Town Board members must concur. Every final decision under this section shall be in writing accompanied with the reasons for the final decision. The decision to approve or deny must be supported by substantial evidence.

- A. A special exception shall become effective upon approval of the Town Board. A record of the special exception shall be filed with the Town Clerk.
- B. A special exception shall expire if a building permit is required but has not been obtained within 12 months of special exception approval.
- C. Failure to comply with any condition and requirement placed on a special exception shall be deemed a violation of the Zoning Code.

## § 525-88. (Reserved)

## Article XIV. Board of Appeals

[Amended 11-10-2016 by Res. No. 2016-05; 3-20-2018 by Ord. No. 2018-05; 11-13-2018 by Ord. No. 2018-08]

## § 525-89. Establishment of Board.

In order that the objectives of this chapter may be more fully and equitably achieved and a means for interpretation provided, there is established a Board of Appeals (hereinafter referred to as "the Board") for the Town of Buchanan.

## § 525-90. Membership and terms of office.

- A. Board members. The Board shall consist of five members. The Town Chairperson shall appoint the members subject to confirmation by the Town Board. The members of the Board shall all reside within the Town. The Town Chairperson shall designate one of the members as Chairperson. No member shall hold any elected office with the Town or hold any other appointed position with the Town.
- B. Terms. The terms of the first appointed shall be for one year, two for two years and two for three years. Successors shall be appointed in such manner at the expiration of each term, and their terms of office shall be three years in all cases, beginning July 1 in the year in which they were appointed and until their successors are appointed.
- C. Vacancies. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant. Members shall be removable by the Town Chairperson for cause upon written charges and after public hearing.
- D. Alternates. The Town Chair shall appoint, for staggered terms of three years, two alternate members of such board, in addition to the five members above provided for. Annually, the Town



Chair shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates. No alternate shall hold any elected office with the Town or hold any other appointed position with the Town.

- E. Compensation. The actual and necessary expenses incurred by the Board in the performance of its duties shall be paid and allowed by the Town Board as in cases of other claims against the Town. The Town Board may also compensate the members of the Board of Appeals and their assistants as may be authorized by the Town Board.

## § 525-91. Rules, meetings, decisions and records.

- A. Rules. The Board shall adopt rules for the conduct of the business of the Board of Appeals in accordance with the provisions of this chapter. The Board may adopt further rules as necessary. No rule may be changed without the concurring vote of a majority of the Board.
- B. Meetings. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson or, in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.
- C. Records and decisions. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Town Clerk and shall be a public record. All actions or decisions shall be taken by resolution in which the concurring vote of a majority of the members of the Board shall be necessary. Each resolution shall contain a written statement of the grounds forming the basis of such resolutions. Notice of filing of all actions and decisions shall be mailed to the parties in interest as determined by the Board.

## § 525-92. Appeals.

- A. Powers. The Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- B. Procedures. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or the Building Inspector or other administrative officer. Such appeal shall be taken within 30 days of the order, requirement, decision or determination appealed from by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board may request the applicant to provide additional information as may be needed to determine the case.
- C. Stays. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

#### D. Withdrawal or amendment.

- (1) If the applicant elects to withdraw the appeal any time before final determination is made by the Board, this fact shall be noted on the application, with the signature of the applicant attesting withdrawal. Copies of the withdrawn application shall be returned to the files of the Board, to the Building Inspector or officer and to the applicant.
- (2) Amendment of an appeal by the applicant may be permitted at any time prior to or during the public hearing, provided that no such amendment shall be such as to make the case different from its description in the notice of public hearing. If the amendment is requested by the applicant after public notice of the hearing has been given, and such amendment is at variance with the information set forth in the public notice, the applicant shall pay an additional fee to cover the cost of amending the public notice. If the amended notice can be published within the time frame specified for the public hearing, the hearing on the amended appeal may be held on that date, otherwise the Chairperson shall announce that the hearing originally scheduled on the case will be deferred to a future meeting, before which appropriate public notice will be given, and will state the reasons for deferral.

### § 525-93. Variances.

- A. Powers. The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest; where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship; and so that the spirit of this chapter shall be observed and substantial justice done.
- B. Requirements for a variance. In general, the power to authorize a variance from the requirements of the Zoning Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances. No variance shall be granted for actions which require an amendment to this chapter. Variances shall only be granted when the Board finds that:
  - (1) The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this chapter.
  - (2) The variance will not permit the establishment of a use which is not permitted or permissible in the district.
  - (3) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  - (4) The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district.
  - (5) The hardship is not shared generally by other land or buildings in the area.
  - (6) The hardship results from the strict application of this chapter and is not the result of self-created or self-imposed circumstances.

### § 525-94. Interpretations.

The Board shall have the power to hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts.

### § 525-95. Public hearings.

- A. Time period. Upon filing with the Board an application for an appeal or variance, the Board shall fix a reasonable time (not more than 60 days from the filing date) for a public hearing.
- B. Notice of hearing. A Class 2 notice pursuant to Ch. 985, Wis. Stats., shall be published, specifying the date, time and place of the hearing and matters to come before the Board.

## § 525-96. Conduct of public hearings.

Any hearing required under this article shall be conducted by the Board in accordance with § 525-85A.

## § 525-97. Appeals from Board decisions.

Any person or persons, jointly or severally, aggrieved by any decision of the Board or any taxpayer or any officer, department, board or bureau of the municipality may, within 30 days after the filing of the decision in the office of the Town Clerk, commence an action seeking the remedy available by certiorari.

## Article XV. Amendments

### § 525-98. Authority.

[Amended 8-17-2010 by Ord. No. 2010-03]

The Town Board may amend the regulations and requirements of this chapter or change the district boundaries of the Official Zoning Atlas. A petition for the amendment may be made by any property owner in the area to be affected by the amendment, by the Town Board or by any member of the Town Board or Town Plan Commission.

### § 525-99. Petition and procedures.

[Amended 8-17-2010 by Ord. No. 2010-03; 11-10-2016 by Res. No. 2016-05]

The petition shall be filed with the Town Administrator, who shall immediately refer it to the Plan Commission for its consideration, report and recommendations. Procedures shall be in accordance with § 62.23(7), Wis. Stats. A petition filed by a property owner shall be accompanied by a fee as contained in the Town of Buchanan Fees and Licenses Schedule.<sup>[1]</sup>

[1] *Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator's office.*

## Article XVI. Fees

### § 525-100. Fee schedule.

[Amended 8-17-2010 by Ord. No. 2010-03]

Fees required under this chapter shall be established in the Town of Buchanan Fees and Licenses Schedule from time to time by resolution of the Town Board. No action shall be taken prior to payment of a required fee.<sup>[1]</sup>

[1] *Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator's office.*

## Article XVII. Comprehensive Plan

[Added 4-27-2007 by Ord. No. 2007-02; amended by Ord. No. 2008-02]

## § 525-101. Statutory authority; adoption of plan.

- A. Pursuant to the provisions of §§ 66.1001 and 60.22, Wis. Stats., the Buchanan Town Board does ordain its authority to prepare and adopt a comprehensive plan as defined in §§ 66.1001(1)(a) and 66.1001(2), Wis. Stats.
- B. Having completed the Town of Buchanan Comprehensive Plan in accordance with the requirements stipulated in Wisconsin's Smart Growth Law, 1999 Act 9, and defined in § 66.1001, Wis. Stats., and as recommended for adoption by the Plan Commission on March 12, 2007, and posted in accordance with Class 1 public notice requirements, the Buchanan Town Board hereby adopts the Town of Buchanan Comprehensive Plan as the guide for future land use and development decisions in the Town.
- C. All programs and actions of the Town that affect land use shall be consistent with the Comprehensive Plan.

## § 525-102. Definition.

A comprehensive plan is a plan for development that recognizes the physical, economic, social, political, aesthetic and related factors of the community. As required by the Wisconsin Smart Growth legislation, the Comprehensive Plan addresses nine required plan elements: issues and opportunities; housing; transportation; agricultural, natural and cultural resources; economic development; land use; intergovernmental coordination and implementation.

## § 525-103. Power and amendments.

The Town Board may amend and update the Town of Buchanan Comprehensive Plan, including associated maps. An application for an amendment to the Comprehensive Plan may be made by any property owner.

## § 525-104. Procedures and fees.

[Amended 11-10-2016 by Res. No. 2016-05]

A petitioner requesting an amendment must submit an application on forms provided by the Town Administrator. The Town Administrator shall immediately refer the application to the Plan Commission for its consideration, report and recommendations. Procedures shall be in accordance with § 66.1001, Wis. Stats. An application shall be accompanied by the payment of a fee as contained in the Town of Buchanan Fees and Licenses Schedule.<sup>[1]</sup>

[1] *Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator's office.*

## Article XVIII. Building and Construction Design Standards and Requirements

[Added 4-22-2014 by Ord. No. 2014-07]

## § 525-105. Applicability.

This article shall be applicable to any new commercial and industrial buildings and additions to commercial and industrial buildings in which a site plan is required in accordance with § 525-79. This article shall also be applicable to any commercial or industrial exterior remodeling when a building

permit is required and more than 50% of the total surface area of the building exterior will be altered or the gross floor area of the building is increased by more than 10%. No part of this article shall be applicable to any property located within the General Agriculture District.

**Article Applicability**

	<b>Dumpster/ Dumpster Enclosures</b>	<b>Landscaping</b>	<b>Outdoor Lighting</b>	<b>Building Material/ Architectural Requirements</b>
New commercial and industrial buildings (any size)	X <small>(rules differ for existing and new)</small>	X	Only for new or replaced fixtures	X
Additions to commercial and industrial buildings (when site plan req.)	X <small>(rules differ for existing and new)</small>	X	Only for new or replaced fixtures	X
Commercial and industrial exterior remodeling (when building permit required and more than 50% of building total exterior surface area altered or gross floor area increased by more than 10%)	X <small>(rules differ for existing and new)</small>	X	Only for new or replaced fixtures	X
Commercial or industrial zoned property which increases parking spaces by more than 10%		X		

No part of the ordinance is applicable to any property located within General Agriculture Zoning District.

**§ 525-106. Approval procedure.**

[Amended 11-10-2016 by Res. No. 2016-05]

All plans as required by this article shall be submitted to the Administrator. Plans shall be submitted the same time as a site plan, if required, or at the time of a building permit. When a site plan is required, the Administrator shall transmit plans along with all pertinent comments to the Plan Commission for its consideration. The Plan Commission shall make a recommendation to the Town Board and approval shall require formal action of the Town Board. When a site plan is not required, plans shall be submitted to the Administrator for approval by the Zoning Administrator.

**§ 525-107. Building and construction design standards and requirements fee.**

Any building construction, additions or remodeling plans applicable to this article shall be accompanied by the payment of a fee as contained in the Town of Buchanan Fees and Licenses Schedule.<sup>[1]</sup>

[1] *Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator's office.*

**§ 525-108. Violations and penalties.**

Any person who violates any provision of this article or any order, rule or regulation made hereunder shall, upon conviction, forfeit not less than \$10 nor more than \$100 for such offense, together with the costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense.

## § 525-109. Dumpster and dumpster enclosures.

- A. Intent. The intent of this section is to establish rules for enclosed dumpster areas in order to:
- (1) Prevent accumulations of garbage and rubbish from spreading throughout the Town and endangering health of citizens.
  - (2) Enhance the aesthetic appearance of the community.
- B. Screening requirements for existing dumpsters. This section is intended to regulate existing dumpsters located on the property.
- (1) Existing dumpsters which, in the judgment of the Town Zoning Administrator, meet the intent of this section shall be exempt from the specific requirements herein. Existing dumpsters located within the Industrial District shall be exempt from requirements, unless the dumpster is located within 100 feet of an existing residential land use.
  - (2) Existing dumpsters which, in the judgment of the Town Zoning Administrator, do not meet the intent of this section shall either remove the dumpster or cause the following improvements to be made:
    - (a) Installation of any screening needed to prevent the dumpster from being seen from:
      - [1] Right-of-way of any public or private street; or
      - [2] Any residential structure (regardless of zoning).
    - (b) Screening may be accomplished by:
      - [1] Full dumpster enclosure;
      - [2] Partial dumpster enclosure (one, two or three sides);
      - [3] Six-foot opaque fencing located between dumpster and the viewer's location;
      - [4] Year-round landscaping (coniferous/evergreen) or berming;
      - [5] Any combination of the above.
  - (3) Any person aggrieved by a decision of the Town Zoning Administrator under this section may appeal the same to the Board of Appeals in accordance with § 525-92.  
[Amended 11-13-2018 by Ord. No. 2018-08]
- C. Screening requirements for new dumpsters. All new dumpsters placed on the property shall meet the following requirements:
- (1) All properties that utilize a dumpster shall utilize an enclosed dumpster area.
  - (2) All dumpster enclosures shall be located behind the structure on the side designated as having the rear yard. If topography or other conditions will not allow the dumpster enclosure to meet this requirement, the Town Zoning Administrator shall approve an appropriate location for any parcels with existing structures and the Town Plan Commission shall approve an appropriate location for any other parcels.
  - (3) Dumpster enclosures shall not be located any closer than five feet to a lot line and any closer than five feet from any structure on the parcel.

- (4) Dumpster enclosures shall not be located on any required parking spaces or within any required easements.
- (5) Dumpsters shall be surrounded by an opaque enclosure that is compatible with the design and color of the principal building. Chain link fencing shall not be permitted as an enclosure.
- (6) Dumpster enclosures shall have a minimum height of six feet. If the dumpster is taller than four feet, the enclosure shall be two feet taller in height than the dumpster. Dumpster enclosure area shall have no overhead obstructions (wires, trees, roof overhangs, etc.).
- (7) Dumpster enclosures shall have a single or double access gate on one side only. Gates shall have a closing latch and must remain closed at all times except during service.
- (8) All dumpster enclosures shall be placed on a concrete pad with a concrete apron.

## § 525-110. Landscaping.

- A. Intent. The intent of this section is to enhance the appearance of the Town by improving the quality of landscaping. Criteria and standards are provided to ensure building sites and off-street parking areas are sufficiently landscaped to protect and preserve the appearance, character and value of surrounding properties and public right-of-way, thereby promoting the general welfare, safety and aesthetic quality of the Town of Buchanan.
- B. Additional applicability. In addition to applicability as listed in § 525-105, this section shall also apply to any commercial- or industrial-zoned property in which there is an increase in the number of parking spaces by more than 10% from existing development.
- C. Landscape plan submittal and requirements. A landscape plan shall be submitted for review and shall be drawn to an appropriate scale and shall include at a minimum the following information:
  - (1) The name and address of owner/developer, and name of the landscape architect/designer.
  - (2) Date of plan preparation, date and description of all plan revisions, name of project or development, scale of plan and North marker.
  - (3) The location of all lot lines, locations of all existing and proposed easements and rights-of-way, and elevation, topography, and cross-section details as determined necessary by the Plan Commission or Zoning Administrator.
  - (4) The location of all existing and proposed structures, parking and loading areas, driveways, sidewalks, ground signs, dumpster enclosure areas, fences, freestanding electrical and other utility equipment and other related site improvement features.
  - (5) The location and contours at one-foot intervals of all proposed berms.
  - (6) The location, caliper size and species (common and/or botanical name) of all existing plant material on the site and designation of intended treatment (save, move, remove).
  - (7) The location, caliper size at planting and species (common and/or botanical name) of all proposed plant materials, and location and description of all ground cover and turf grasses.
  - (8) A schedule of all new plants proposed for planting, and those existing plants that will be saved, including planned installation date.
  - (9) A schedule itemizing the total square foot area of all greenspace proposed on the lot, the total square foot area of off-street parking, the number of off-street parking spaces, the number and square foot area of each interior island and peninsula.
- D. Landscape standards. Landscaping required under this section shall be of four types as specified below: lot line landscaping, interior landscaping, buffer yard landscaping and screening requirements:

- (1) Lot line landscaping. A minimum five-foot-wide area extending along the lot adjacent to all road right-of-way plus a minimum five-foot-wide area along all other lot lines shall be landscaped as described below. (Requirements shall not apply for any development with an approved zero-lot line.)
    - (a) Lot line landscaping areas shall be planted with a minimum of one shade tree and six shrubs per 40 linear feet of frontage, excluding driveway openings.
    - (b) Where it is deemed appropriate or desirable to construct a berm in the lot line landscaping area, as may be required by the Plan Commission or Zoning Administrator, the slope of the berm shall be planted with a minimum of one shade tree and three shrubs per 40 lineal feet of frontage, excluding driveway openings.
  - (2) Interior landscaping. Curbed planting islands or peninsulas shall be provided in off-street parking areas as described below.
    - (a) Parking spaces must be separated by a planting island or peninsula at the rate of one island/peninsula for each row of 12 consecutive parking spaces for single-row configurations, or for each 24 consecutive parking spaces in double-row configurations.
    - (b) Each island or peninsula shall be at least 162 square feet in area for single-row configurations, and 324 square feet in area for double-row configurations.
    - (c) One tree shall be planted in each island or peninsula, or within 10 feet of the periphery of the parking area.
    - (d) Where practicable, islands and peninsulas shall be placed at the ends of parking rows or along designated pedestrian circulation areas. Planted boulevards within off-street parking areas may be considered as an alternative to islands and peninsulas.
  - (3) Landscaped buffer. Landscaped buffer regulations as required by the Zoning Chapter, § **525-38**, shall continue to be met when required.
  - (4) Screening requirements. The intent of these requirements is to provide a visual screen around service equipment and vehicle storage areas. At the time of installation or planting, screening materials must be 50% impervious at planting to sight, and be sufficiently high and long to accomplish the desired blockage of view year round.
    - (a) All loading, service equipment and vehicle storage areas on commercial and industrial properties shall be screened from view to all adjacent properties. Screening materials may consist of the following:
      - [1] For commercial properties there shall be a minimum ten-foot-wide strip and shall be planted with 10 evergreen trees, three shade trees, five ornamental trees and 25 shrubs per 100 linear feet.
      - [2] For industrial developments there shall be a minimum twenty-five-foot-wide strip and shall be planted with 15 evergreen trees, three shade trees and five ornamental trees per 100 linear feet.
      - [3] As an alternative to these landscaping requirements, a six-foot-high sight-tight fence may be constructed near the lot line, with the remainder of the required strip planted with a minimum of two shade trees and five evergreen trees per 100 linear feet.
      - [4] The required strip shall be a greenspace where no portion of a building, parking, driving, loading or storage area may be located.
- E. Planting specifications. Plant materials provided in conformance with the requirements of this section shall be equal to or better in quality than the standards of the American Nursery and Landscape Association. The minimum sizes of plant materials that shall satisfy the requirements of this section are as follows:



- (1) Shade tree: caliper of 2 1/2 inches.
- (2) Ornamental tree: caliper of 1 1/2 inches.
- (3) Evergreen tree: five feet in height.
- (4) Shrub: eighteen-to-twenty-four-inch height or spread.

F. Substitutions and modifications.

- (1) To meet unique site design conditions or to overcome obstructions, conflicts or other factors, the Plan Commission or Zoning Administrator may approve planting substitutions as described below.
  - (a) Two ornamental trees may be substituted in place of one shade tree.
  - (b) Two evergreen trees may be substituted in place of one shade tree.
  - (c) One evergreen tree may be substituted in place of five shrubs.
  - (d) One shade tree may be substituted in place of 10 shrubs.
- (2) While plant materials should generally be distributed proportionately on the lot in accordance with the standards of this section, the Plan Commission or Zoning Administrator can require alterations and variations in the planting pattern, on a case-by-case basis, to maximize the effectiveness of the installed landscaping.

G. Installation/certification. All landscaping, buffering and screening improvements required under this section must be completed on a schedule approved by the Plan Commission or Zoning Administrator. Within 30 days of the installation of plan materials, the owner/developer shall submit written certification to the Town that healthy plant materials were properly installed in accordance with the approved landscape plan.

H. Maintenance. The owner of the lot on which landscaping has been provided shall be responsible for protecting and maintaining all plant materials and landscape areas in a healthy and growing condition and shall be responsible for keeping them free from refuse, debris and weeds. Failure to maintain or replace dead or diseased plant materials during the next appropriate planting period shall constitute a violation of the provisions of this section.

## § 525-111. Outdoor lighting.

A. Intent. The intent of this section is to regulate outdoor lighting in order to reduce and prevent light pollution within the Town of Buchanan, promoting the public health, safety, prosperity, aesthetics and general welfare of the community. This means, to the extent reasonably possible, the reduction or prevention of glare and light trespass, the conservation of energy, and promotion of safety and security.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**DARK SKY CUTOFF**

Any light fixture that emits its light below 45° when measured from 0 to 180° vertical. Dark sky cutoff fixtures keep most of their light from reaching the night sky and also minimize ground reflection and reduce light scatter beyond the property line.

**DARK SKY FIXTURE**

A light fixture that emits its light below 90° when measured from 0 to 180° vertical. Dark sky fixtures keep most of their light from reaching the night sky.

**DARK SKY SHADE OR SHIELD**

Anything that is used to shade or shield a light fixture so that it behaves as a dark sky fixture. These include, but are not limited to, fixtures outfitted with caps or housings or installed under canopies, building overhangs, roof eaves, or shaded by other structures, objects or devices.

#### **FIXTURE or LUMINAIRE**

A complete lighting unit including the lamps or bulbs, together with the parts required to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

#### **FULL CUT-OFF**

A light fixture that prevents all transmissions of light above the horizontal.

#### **FULL SHIELD**

A fixture with housing or attachment which prevents a line of sight to the bulb when viewed from another property and which prevents a line of sight to any part of the light source at or above a horizontal plane running through the lowest portion of the fixture.

#### **LIGHT POLLUTION**

A general sky glow caused by the scattering of artificial light in the atmosphere and resulting in decreased ability to see the natural night sky.

#### **LIGHT TRESPASS**

Light emitted by a fixture that shines beyond the property on which the fixture is installed causing private nuisance to adjacent property owners.

#### **MOTION SENSOR**

Any device that turns a light fixture on when it detects motion and off when motion stops.

#### **SHIELDING**

Allows no light rays to be emitted by a fixture above the horizontal plane running through the lowest point of the fixture where light is emitted.

#### **SWITCH**

Any device that can be manually controlled by a person to turn a light fixture on and off.

#### **TEMPORARY**

Refers to lighting as required to carry out legally approved activities for durations as specified in permits for those activities. These include, but are not limited to, for example, activities such as nighttime agricultural operations, construction work lighting and seasonal decorations.

- C. General prohibitions. Except as specifically permitted by this article, all non-dark-sky lights and fixtures are prohibited.
- D. Light fixtures permitted.
  - (1) Existing light fixtures. All light fixtures existing as of the effective date of this article are grandfathered, approved and permitted by this article. However, at such time as such fixture is replaced, the provisions of this article shall apply.
  - (2) Dark sky fixtures. All light fixtures that are dark sky fixtures and dark sky cutoff fixtures are approved and permitted by this article.
  - (3) Dark sky shade or shield. All light fixtures that have a dark sky shade or dark sky shield (fully shielded) are approved and permitted by this article.
  - (4) Other light fixtures encouraged but not required:
    - (a) Light fixtures with motion sensors are encouraged to minimize the duration of nighttime lighting.

- (b) Light fixtures with soft yellow or orange lights instead of harsh white lights are encouraged to protect the view of the night sky.
  - (c) Dark sky shades and dark sky shields are encouraged for existing fixtures to protect the view of the night sky, minimize ground reflection and reduce light scatter beyond the property line.
- E. Exemptions. The Plan Commission or Zoning Administrator may allow exemptions from this article as needed to relieve any unusual circumstances or difficulties or costs that would be encountered in complying with this article. The burden shall be on the applicant requesting the exemption to establish good cause.

## § 525-112. Building material and architectural requirements.

- A. Intent: achieve a cohesive, aesthetically pleasing and consistent architectural character in new construction, additions and redevelopment through the use of exterior building materials and details that are similar to or compatible with adjacent buildings.
- B. Building material and facade requirements.
- (1) Materials must be selected to adequately suit the type of building and style in which it is intended to serve.
  - (2) Buildings must have the same materials, or those which are architecturally harmonious, used for all building elevations. A primary facade material must be used consistently on all building elevations to limit the number of compatible secondary facade materials.
  - (3) The sides and rear of buildings shall be as visually attractive as the front through the design of rooflines, use of similar architectural detailing and building materials.
  - (4) Examples of appropriate facade materials: brick, nonreflective glass, wood, stucco, decorative architectural tile, integrally colored textured concrete, natural or cultured stone, architectural block, architectural metal panels.
  - (5) Examples of prohibited facade materials: particle board, shingle siding (except for cedar shake siding), vinyl siding, wood siding (plywood paneling), highly reflective or glare-producing glass, industrial metal panels with or without exposed fasteners, concrete masonry units, exposed aggregate precast concrete, metal.
- C. Architectural requirements.
- (1) Building designs shall minimize the effects of size and scale by use of variable rooflines, door and window openings, facade protrusions or recesses, and use of porticos, overhangs, arcades, arches, patios and other similar features.
  - (2) Building entrances must be designed to be clearly identifiable and easily recognizable from parking lots and pedestrian access points.
  - (3) Colors shall be compatible, coherent and harmonious with existing materials in the immediate area. Color schemes shall be used consistently throughout the property. Fluorescent, day-glow and/or neon colors and light tubing shall not be permitted.
  - (4) For all visible roofs, roofing materials and construction must be high quality, such as but not limited to standing seam metal, slate, cedar or architectural shingles. Roofing materials and shape must be compatible with the architectural style of the building and with surrounding buildings and roofs.

## § 525-113. Severability.

This article and its individual provisions are declared to be severable. If any section, clause, provision, or portion of this article is declared invalid or unconstitutional by a court of competent jurisdiction, this decision shall not affect the validity of the ordinance as a whole. All parts of the ordinance not declared invalid or unconstitutional shall remain in full force and effect.

## Article XIX. Adult-Oriented Entertainment Businesses

[Added 6-17-2014 by Ord. No. 2014-05]

### § 525-114. through § 525-149. (Reserved)

### § 525-150. Purpose.

- A. The purpose of this article is to control through zoning regulations certain adult-oriented entertainment uses that have a direct and detrimental effect on the character of the Town's residential neighborhoods and commercial areas.
- B. It shall not impose a limitation on the content of any communication materials, including sexually oriented materials as protected by the First Amendment.

### § 525-151. Definitions.

For purposes of this article, the following terms shall have the meanings indicated:

#### **ADULT-ORIENTED ENTERTAINMENT BUSINESS**

An adult bookstore, adult theater, adult massage parlor, adult sauna, adult entertainment center, adult cabaret, adult health/sport club, adult steam room/bathhouse facility, or any other business whose primary business activity is characterized by emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse as defined herein.

#### **NUDITY**

The showing of the human male or female genitals or pubic area with less than a fully opaque covering or the depiction of covered male genitals in a discernibly turgid state and/or the appearance of bare buttocks, anus, or female breast.

#### **SEXUAL CONDUCT**

Acts of masturbation, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks, or, if such person be a female, her breast.

#### **SEXUAL EXCITEMENT**

The condition of human male or female genitals when in a state of sexual stimulation or arousal.

### § 525-152. Applicability.

The provisions of this article of the Zoning Code shall apply to all existing and future adult-entertainment-oriented businesses. However, any such existing business that does not meet the zoning district restrictions or the distance limitations may continue its existence as a nonconforming use; provided, however, that no such business may be enlarged or increased in size or be discontinued for a period of no more than 180 days.

### § 525-153. General requirements.

- A. Zoning district. Adult-use-only bookstores, adult theaters, adult massage parlors, adult saunas, adult entertainment centers, adult cabarets, adult health/sport clubs, adult steam room/bathhouse facilities, and other adult-oriented entertainment businesses sexual in nature may be operated or maintained only within the CL Local Commercial District with a valid special exception as required in Article **XIII** of Ch. **525**; and provided that it is located on a minor or major arterial road and subject to the distance limitations noted below.
- B. Distance limitations. No adults-only bookstore, adult theaters, adult massage parlor, adult cabaret, health/sport club, adult steam room/bathhouse facility, or other adult-oriented entertainment businesses as defined under this article shall:
- (1) Be operated or maintained within 1,000 feet of the boundary of any Single-Family Residential District (RSF), Residential Two-Family District (RTF) or any Multifamily Residential District (RMF);
  - (2) Be operated or maintained within 1,000 feet of a church, recreational site, licensed day care facility, public library, public or private educational facility which serves persons age 17 or younger, elementary school, high school, place of worship, or elderly housing facility;
  - (3) Be operated or maintained so that there are no more than two such businesses within 2,500 feet as measured by the radius from each business;
  - (4) Distance limitations set forth herein shall be measured in a straight line from the main public entrances of said premises or from the lot lines of properties in Single-Family Residential District (RSF), Residential Two-Family District (RTF) or any Multifamily Residential District (RMF).
- C. Same use restrictions. No adult-oriented business shall be located in the same building or upon the same property as another such use.
- D. Sign limitations. Notwithstanding any other provision of this code, an adult-oriented entertainment business shall not be permitted more than one sign advertising its business, which shall be an on-premises or building sign only. All such signs shall meet the following criteria:
- (1) Have no merchandise or pictures of the products or entertainment on the premises displayed in window areas or any area where they can be viewed from the sidewalk in front of the building;
  - (2) No sign shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only;
  - (3) No sign shall contain any flashing lights, moving elements, or mechanically changing messages;
  - (4) No sign shall contain any depiction of the human form or any part thereof nor shall it contain sexually explicit language such as "nude dancing" or "Girls, Girls, Girls," etc;
  - (5) No sexually-oriented business may have any off-premises sign;
  - (6) In order to allow currently operating adult-oriented entertainment businesses to recover their financial investment in current signage, any currently operating adult-oriented entertainment business shall bring its signage into conformity with the provisions of this subsection within one year from the date of passage of this article.
- E. Operating standards. All such adult-oriented entertainment businesses shall operate in accordance with the following:
- (1) No employee shall solicit business outside the building in which the business is located;
  - (2) No male or female person, while on the premises, shall impose to public view his or her genitals, pubic area, anus, or anal cleft. Full nudity is prohibited;

- (3) No person on the premises shall engage in sexual conduct, sadomasochistic abuse or in any way fondle their genitals;
- (4) Nudity is prohibited for any employee of an adult-oriented business where such person is in direct, personal contact with another person.

F. Building's exterior appearance. The building's exterior shall meet the following criteria:

- (1) Colors to be earth or neutral tones with primary accent colors to be within the same color family;
- (2) Stripes and geometric patterns are prohibited;
- (3) A color scheme which is directly inherent to a unique recognized architectural style but not otherwise compliant with this article may be reviewed and approved by the Town Board;
- (4) The exterior shall be adequately maintained in good condition.

## § 525-154. Severability.

This article and its individual provisions are declared to be severable. If any section, clause, provision, or portion of this article is declared invalid or unconstitutional by a court of competent jurisdiction, this decision shall not affect the validity of the ordinance as a whole. All parts of the ordinance not declared invalid or unconstitutional shall remain in full force and effect.

## § 525-155. Violations and penalties.

In addition to the provisions set forth in this article, any person who violates the provisions of this article shall be subject to a penalty as provided in § 1-7.