

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- (a) Churches, schools, hospitals, sanitoriums and other public and quasi-public buildings may be erected to a height not exceeding sixty (60) feet nor five (5) stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- (b) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, steeples, radio and television towers, telephone, telegraph and power poles and lines, and necessary mechanical appurtenances are excepted from the height regulations of this ordinance and may be erected in accordance with other regulations or codes of the City of Menasha.
- (c) Residences in the residence district may be increased in height by not more than ten (10) feet when all yards and other required open spaces are increased by one (1) foot for each foot when such building exceeds the height limit of the district in which it is located.
- (d) Where a lot abuts on two (2) or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of one hundred twenty (120) feet from the line of the higher average established grade.
- (e) Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.
- (f) Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this Code, such lot may be occupied by one (1) family.
- (g) In front yards, balconies may extend a distance of four (4) feet or less, provided they are seven (7) feet or more above the grade at the building line. Steps, stoops, uncovered porches, decks and patios may extend a distance of eight (8) feet or less into the front yard.
- (h) Open or enclosed fire escapes and fire towers may project into a required yard not more than five (5) feet and into a required court not more than three and one-half (3-1/2) feet, provided it be so located as not to obstruct light and ventilation.
- (i) In the C-1, C-2, C-3 and C-4 zoning districts, the Plan Commission may waive or modify the rear yard and/or side yard setback when internal traffic flow, parking and/or ingress/egress are shared by contiguous, commercial uses allowed in the C-1, C-2, C-3 and C-4 districts and that will benefit the overall development of the site(s). The property owner shall provide and equivalent open space on the same lot in lieu of the require rear yard or side yard setback. This exception does not apply, however, when the adjoining use or zoning district is residential.
- (j) In the C-1, C-2, C-3 districts, and Special Uses in the R-1, R-2, R-3, and R-4 districts, covered canopies shall be allowed to extend into the front yard setback up to the right-of-way. Such canopies shall have a seven (7) foot minimum clearance at all points. Any portion of the canopy proposed to be extended into the right-of-way shall be subject to review and approval from the Director of Public Works and issuance of a revocable occupancy permit.
- (k) No principal structure or accessory structure erected after June 1, 2009 shall be placed within ten (10) feet of a dedicated drainage easement.

SEC. 13-1-15 REDUCTION OR JOINT USE.

No lot, yard, parking area, building area or other space shall be reduced in area or dimensions so as

ARTICLE M

Definitions

SEC. 13-1-160 DEFINITIONS.

(a) The following words and terms, wherever they occur in this Chapter, shall be construed as herein defined. Words not defined shall be interpreted in accordance with definitions found in any standard dictionary:

- (1) **ABUTTING.** Making contact with or separated only by public thoroughfare, railroad or public utility right-of-way.
- (2) **ACCESSORY BUILDING.** A subordinate building or a portion of the main building which is located on the same lot or parcel as the main building and the use of which is clearly incidental to that of the main building or to the use of the premises. This definition excludes a private garage.
- (3) **ACCESSORY USE.** A use on the same lot with and of a nature customarily incidental and subordinate to the principal building or use.
- (4) **AIRPORT OR HELIPORT.** Any land or structure which is used or intended for use, for the landing and takeoff of aircraft and any appurtenant land or structure used or intended for use by port buildings or other port structures or rights-of-way.
- (5) **ALLEY.** A public right-of-way not less than twenty-four (24) feet in width which has been dedicated or deeded to the public for public use and designed to provide secondary access to abutting property.
- (6) **ANIMALS - DOMESTIC.** Dogs, cats, birds and other commonly known house pets.
- (7) **ADULT ESTABLISHMENTS.** Establishments which include bookstores, motion picture theaters, mini-motion picture theaters, bath houses, massage parlors, modeling and body painting studios and cabarets whose principal use is to depict, describe, engage in or relate to "specified anatomical areas" or "specified sexual activities." Escort services and escorts as regulated in Sec. 7-13 shall be considered adult establishments.
- (8) **APARTMENT.** A room or suite of rooms rented, leased or granted similar tenancy, with cooking facilities available which is occupied as a residence by a single family or a group of individuals living together as a single-family unit. This includes any unit in buildings with more than two (2) dwelling units.
- (9) **APARTMENT BUILDING.** Three (3) or more dwelling units or apartments grouped in one (1) building.
- (10) **AUTOMOBILE/TRUCK WASH.** A building, or portion thereof, containing facilities for washing automobiles or trucks, using production line methods, including, but not limited to, steam cleaning devices or other mechanical devices.
- (11) **AUTOMOBILE WRECKING.** The dismantling or wrecking of used motor vehicles or trailers or the storage, sale or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts. (See also junk yard.)
- (12) **BASEMENT.** A portion of a building located partly underground, but having half or more of its floor to ceiling height below the average grade of the

- area, as defined within the Code, to be considered a buildable lot.
- (92) **PARKING SPACE.** A suitable surfaced and permanently maintained area either within or outside of a building of sufficient size to store one (1) automobile.
 - (93) **PEDESTRIAN WAY.** A public or private right-of-way across or within a block to be used by pedestrians.
 - (94) **PERSON.** An individual, firm, partnership, association, corporation or organization of any kind.
 - (95) **PLAN, COMPREHENSIVE.** Comprehensive plan shall mean a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan implementation. A comprehensive plan represents the planning agency's recommendations for the future development of the community.
 - (96) **PLAN, SITE.** A map or graphics prepared to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of the structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, existing and proposed grading, walkways and other site development information as related to a proposed development.
 - (97) **PLANNED UNIT DEVELOPMENT.** A development having two (2) or more principal uses or structures on a single tract or tracts of land, developed according to a plan approved by the City, under single ownership or unified control. A planned unit development allows for flexibility not available under normal zoning district requirements. A planned unit development may include a combination of land uses.
 - (98) **PREVAILING.** The predominant or most frequent occurrence.
 - (99) **PRINCIPAL STRUCTURE OR USE.** One which determines the predominant use as contrasted to accessory use or structure.
 - (100) **PROPERTY LINE.** The legal boundaries of a parcel of property which may also coincide with the right-of-way of a road or ordinary high water mark.
 - (101) **PUBLIC LAND.** Land owned or operated by a municipality, school district, county, state, federal or other governmental unit.
 - (102) **PUBLIC BUILDING.** A building owned and operated by a governmental unit including, but not limited to, fire stations, wells, city hall, public works, senior citizen facility and police facilities.
 - (103) **RECREATION, COMMERCIAL.** Includes all uses such as bowling alleys, driving ranges and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.
 - (104) **RECREATION, PUBLIC.** Includes all uses such as tennis courts, ball fields, picnic areas and the like that are commonly provided for the public at parks, playgrounds, community centers and other sites owned and operated by a unit of government for the purpose of providing recreation.
 - (105) **RECREATIONAL VEHICLE.** Any vehicle less than thirty (30) feet in overall length that is mounted on wheels used for convenience on highways and streets and propelled or drawn by its own motor power.
 - (106) **RESTAURANTS, TRADITIONAL.** Restaurant where food is served by a waitress or waiter to a customer and consumed while seated at a counter or a table. Food is served on non-disposable containers.
 - (107) **RESTAURANTS, DRIVE-IN.** Restaurants in which the customers are served food

- at a carry-out counter or service window.
- (108) **ROAD.** Right-of-way affording primary access by pedestrians and vehicles to abutting property whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, land, place or however otherwise designated. Egress and ingress easements shall not be considered roads.
- (109) **ROOM.** A space within a building completely enclosed, except for openings for light, ventilation, ingress and egress.
- (110) **SHORE YARD SETBACK.** The minimum horizontal distance between the structure and the ordinary high water mark (see diagram).
- (111) **SIGN.** A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly on a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.
- (112) **SOLAR STRUCTURE.** A structure designed to utilize solar energy as an alternative for, or supplement to, a conventional energy system.
- (113) **SPECIFIED ANATOMICAL AREAS.** Less than completely and opaquely covered human genitals, pubic region, buttocks, female breast below a point immediately above the top of the areola and human male genitals in a discernibly turgid state even if completely or opaquely covered.
- (114) **SPECIFIED SEXUAL ACTIVITIES.** Activities where human genitals are in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of the human genitals, pubic region, buttocks or female breast.
- (115) **STREET.** A public right-of-way which affords primarily means of access to abutting property and shall also include avenue, highway, road or way.
- (116) **STRUCTURE.** Anything constructed, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground.
- (117) **UNDUE HARDSHIP.** Undue hardship as used in connection with the recommending of the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance, if recommended, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Code.
- (118) **USE, ACCESSORY.** A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.
- (119) **USE, PERMITTED.** A public private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.
- (120) **USE, PRINCIPAL.** The main use of land or buildings as distinguished from subordinate or accessory uses.
- (121) **USE, SPECIAL.** A public or private use which possesses unique characteristics that may affect the community or the surrounding area and, therefore, deserves special consideration and permission before being established.
- (122) **VARIANCE.** A modification or variation of the provisions of this Code where it is determined that, by reason of special and unusual circumstances relating to a specific lot, strict application of the Code would cause an undue hardship.