ORDINANCE O - _____ - 14

AN ORDINANCE REPEALING AND RECREATING A SECTION OF TITLE 13 OF THE MENASHA CODE OF ORDINANCES RELATING TO ARTICLE M DEFINITIONS

Introduced by _____.

The Common Council of the City of Menasha does ordain as follows:

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:

(13) **BED AND BREAKFAST ESTABLISHMENT.** Any place of lodging that satisfies all of the following (as per Chapter 254.61, Wis. Stats.):
(i) Provides 8 or fewer rooms for rent to no more than a total of 20 tourists or transients.
(ii) Provides no meals other than breakfast and provides the breakfast only to renters of the place.
(iii) Is the owner's personal residence.
(iv) Is occupied by the owner at the time of rental.
(v) Was originally built and occupied as a single-family residence, or prior to use as a place of lodging, was converted to use and occupied as a single-family residence.

(14) **BOARDER.** A person who regularly receives lodging with or without meals at another's home for pay or services.

(15) **BOARDING OR ROOMING HOUSE ~~(ROOMING, LODGING, TOURIST HOME OR BED AND BREAKFAST INN)~~.** Building or dwelling unit other than a motel, ~~or~~ hotel, Bed and Breakfast Establishment, or Tourist Housing House, where, for compensation and by prearrangement, lodging is provided with or without meals for three (3) or more persons, not to exceed eight (8) persons, nor more than two (2) persons to a room ~~(as per ILHR Chapter 57)~~.

(16) **BOARDING UNIT.** Any room or group of rooms forming a habitable unit used or intended to be used for living and/or sleeping but not used for cooking or eating purposes.

(17) **BROADCASTING ANTENNA, RADIO AND TELEVISION.** Commercial, public or private broadcasting towers exceeding the district height limitations or more than one (1) tower of any height located on the same lot or parcel.

(18) **BUFFER.** The use of land, topography, difference in elevation, space, fences or landscape planting to screen or partially screen a use or property from another use or property and thus reduce undesirable influences, such as site, glare, noise, dust and other external effects.

(19) **BUILDABLE AREA.** The space remaining on a lot after the minimum yard requirements, drainage provisions, open space and other site constraint requirements of this Code have been met.

(20) **BUILDING.** Any structure having a roof which may provide shelter, support, protection or enclosure of persons, animals or property of any kind; and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

(21) **BUILDING HEIGHT.** The vertical distance to be measured from the grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the upper-most point on a round or other arch-type roof, to the mean distance of the highest gable on a pitched or hip roof.

(22) **BUILDING LINE.** An imaginary line separating buildable area and the required yards as defined herein.

(23) **BUILDING LINE, SHORELAND.** A line measured across the width of the lot where the main structure is placed in accordance with the setback provisions from the ordinary high water mark, as designated by the Department of Natural Resources.

(24) **BUSINESS.** Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

(25) **CAMPUS.** One or more parcels on adjacent or opposing lots upon which two or more structures exhibit a common design theme and architectural character.

(26) **CEMETERY.** Site set apart for the burial or interment of the human dead.

(27) **CHURCH.** A building, together with its necessary buildings and uses, where persons regularly assemble for religious worship and which buildings, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

(28) **CLUB OR LODGE.** A nonprofit association of persons who are bona fide members paying annual dues, with the use of premises being restricted to members and their guests. The serving of food and meals on such premises is permissible providing adequate dining room space and kitchen facilities are available. Serving of alcoholic beverages to members and their guests shall be allowed, provided such serving is secondary and incidental to the operation of the dining room for the purpose of serving food and meals and providing further that such serving of alcoholic beverages is in compliance with the applicable federal, state, county and municipal laws.

(29) **COMMUNITY LIVING ARRANGEMENT.** Facilities licensed or operated or permitted under the authority of the Wisconsin Department of Health and Social Services, including child welfare agencies, group foster homes for children and community-based residential facilities (as per Chapter 46.03, Wis. Stats.).

(30) **CONDOMINIUM.** A form of individual ownership within a building which may entail joint ownership and responsibility for maintenance and repairs of the land and other common property of the building.

(31) **DAY CARE CENTER.** A licensed facility in which care and supervision is providing for four (4) or more children under the age of seven (7) years for less than twenty-four (24) hours per day.

(32) **DENSITY.** A number expressing the relationship of the number of dwellings to an acre of land.

(33) **DRIVE-IN.** Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where fast service to the automobile occupants is offered regardless of whether the service is provided within the building.

(34) **DRIVEWAY.** A graveled or paved access from a street to a private structure or parking area and a continuous access to a street.

(35) **DWELLING, ATTACHED.** A dwelling which is partially surrounded by open space on the same lot.

(36) **DWELLING DETACHED.** A dwelling which is entirely surrounded by open space on the same lot.

(37) **DWELLING UNIT.** A residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels and boarding houses.

(38) **DWELLINGS FOR WATCHMEN.** A dwelling unit whose occupancy is limited to an employee of the entity owning or conducting operations on the site whose job responsibilities include site security.

(39) **EASEMENT.** A grant by a property owner for use of a strip of land by the public or any person for any specific purpose or purposes of construction and maintaining utilities, including, but not exclusive of the following: sanitary sewers, water mains, electric lines, telephone lines, other transmission lines, storm sewer, storm drainage ways, gas lines, other service utilities, etc.

(40) **EXTERIOR STORAGE.** The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

(41) **FAMILY.** Any number of persons each related by blood, marriage, adoption or foster care arrangement living together as a single housekeeping unit, or a group of not more than four (4) persons not so related, maintaining a common household, and using common cooking and kitchen facilities.

(42) **FAMILY DAY CARE HOME.** A licensed facility located in a residential dwelling and operated by a resident family, providing care and supervision for four (4) to eight (8) children.

(43) **FARM.** Any tract of land, one (1) acre or larger, used for the growing/production of field crops or the raising of non-domesticated animals.

(44) **FENCE.** Any partition, structure, wall or gate erected as a divider marker, barrier or enclosure and located along the boundary or within the required yard.

(45) **FLOOR AREA.** The net area of any floor space enclosed by exterior walls, fire walls or absolute fire separation, exclusive of open spaces.

(46) **FLOOR AREA, PUBLICLY USED.** All occupied areas within a building except for: all rooms with ceilings less than six (6) feet eight (8) inches at their lowest point, toilet rooms, furnace and mechanical rooms, identified exit corridors, exit stairs, permanent fixtures and janitor's or other small closets.

(47) **FRONTAGE.** That boundary of a lot which abuts an existing or dedicated public street.

(48) **GARAGE, PRIVATE.** A detached or attached building or a portion of the principal building, including a car port, which is used primarily for the storing of motor vehicles by the tenants of the building or buildings.

(49) **GARAGE, PUBLIC.** Any premises, except those described as a private garage, used for the storage or care of power-driven vehicles or where any such vehicles are equipped for operation, repaired or kept for renumeration, hire or sale.

(50) **GARAGE, REPAIR.** A building or space for the repair or maintenance of vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junk yards.

(51) **GASOLINE STATION.** Any building or premises used for the dispensation, sale or offering for retail sale of any motor fuels, oils or lubricants. The building or space may also be used for the repair or maintenance of vehicles.

(52) **HOME OCCUPATION.** Any business or commercial activity that is conducted or

petitioned to be conducted from property that is zoned for residential use.

(53) **HOTEL.** ~~Any building or portion thereof providing provisions for nine (9) or more guests, in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is through an inside lobby or office, supervised by a person in charge~~ A place where sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all related rooms, buildings and areas (as per Chapter DHS 195, Wis. Stats.).

(54) **JUNK YARD.** Land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including, but not limited to, scrap metal, rags, paper, rubber products resulting from wrecking or salvage of automobiles or other vehicles, or outdoor storage of two (2) or more unregistered vehicles, except as otherwise authorized. Such use shall not include sanitary landfill and organic waste or material.

(55) **KENNEL -- COMMERCIAL.** Any structure or premises on which four (4) or more animals of one (1) type, over four (4) months of age, are kept, owned, boarded, groomed, sheltered, protected, bred or offered for sale or any other merchandising.

(56) **LANDSCAPING.** Alteration of the natural terrain, including the planting of trees, grass, shrubs and ground cover.

(57) **LOT.** A tract of sand, designated by metes and bounds, registered land survey, or plat, and separated from other tract of land by legal description approved by the City of Menasha and recorded in the office of the County Register of Deeds.

(58) **LOT AREA.** Area within a lot, including land over which easements have been granted, but not including any land within the limits of a public street upon which such lot abuts. If a corner lot has its corner bounded by a curved line connecting other street lines which, if extended, would intersect, the area may be computed as if such boundary lines were so extended.

(59) **LOT AREA PER UNIT.** The lot area required by this Chapter to be provided for each dwelling unit.

(60) **LOT, CORNER.** A lot situated at the junction of and abutting on two (2) or more intersecting streets or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.

(61) **LOT, COVERAGE.** Percentage of lot area used for a defined purpose.

(62) **LOT DEPTH.** The minimum horizontal distance between the front lot line and the rear lot line of a lot.

(63) **LOT, DOUBLE FRONTAGE.** Percentage of lot area used for a defined purpose.

(64) **LOT, INTERIOR.** A lot other than a corner lot.

(65) **LOT LINE.** A lot line that is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed right-of-way, the line of such public right-of-way shall be the lot line.

(66) **LOT LINE, FRONT.** That boundary of a lot which abuts an existing or dedicated public street. In the case of a lot abutting two (2) or more public streets, the front lot line shall be the lot line of least dimension.

(67) **LOT LINE, REAR.** That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

(68) **LOT LINE, SIDE.** Any boundary of a lot which is not a front lot line or a rear lot line.

(69) **LOT, REVERSED FRONTAGE.** A corner lot whose rear lot line coincides with any part of the side lot line of an abutting interior lot (see diagram).

(70) **LOT, SUBSTANDARD.** Any platted lot less than seven thousand two hundred (7,200) square feet in lot area.

(71) **LOT OF RECORD.** Any lot which is one (1) unit of a plat duly approved and filed or one (1) unit of an assessor's subdivision or a registered land survey that has been recorded in the office of the County Register of Deeds prior to the effective date of this Code.

(72) **LOT WIDTH.** The maximum horizontal distance between the side lot lines of a lot is measured on or within the front yard setback requirements.

(73) **MOBILE HOME.** A manufactured home as defined in the U.S. Department of Housing and Urban Development's Mobile Home Construction Safety Standards, 24 C.F.R. Sec 3280.

(74) **MOBILE HOME SITE.** A parcel of land for the placement of a single mobile home for the exclusive use of the occupants of said mobile home.

(75) **MOBILE HOME PARK.** Any site, lot, field or tract of land under single ownership, designed, maintained or intended for the placement of two (2) or more occupied mobile homes. Mobile home parks shall include any buildings, structures, vehicles or enclosure intended for use as part of the equipment of such mobile home park.

(76) **MOBILE HOME STAND.** That part of an individual mobile home plat which has been reserved for placement of the mobile home, appurtenant structures or additions.

(77) **MOTEL.** ~~A building or group of detached, semi-detached or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit and which is designed, used or intended to be used primarily for the accommodation of automobile transients.~~ A hotel that furnished on-premise parking for motor vehicles of guests as part of the room charge, without extra cost, and that is identified as a “motel” rather than a “hotel” at the request of the operator (as per Chapter DHS 195, Wis. Stats.).

(78) **MULTIPLE RESIDENT.** Three (3) or more dwelling units in one (1) structure.

(79) **NOISE.** One (1) or a group of loud, harsh, non-harmonious sounds or vibrations that are present and irritating to the ear.

(80) **NON-CONFORMING STRUCTURE.** Any structure whose lot area, yard and/or height regulations permitted or existing at the time of adoption of this Code now do not comply with the provisions of this Code.

(81) **NON-CONFORMING USE.** Any use of a lot or structure permitted or existing at the time of adoption of this Code which now does not comply with all the regulations of this Code or any amendments hereto governing the zoning district in which such use is located.

(82) **NOXIOUS.** Matter which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the health, the physiological or social or economic well-being of human beings.

(83) **NURSERY SCHOOL.** A use where care is provided for four (4) or more children under kindergarten age.

(84) **NURSERY, LANDSCAPE.** A business engaged in growing and selling trees, flowering and ornamental plants, grasses, and shrubs and other ground covers which may be conducted within a building or without for the purpose of landscape construction.

(85) **NURSING HOME, REST HOME OR CONVALESCENT HOME.** A building with facilities for the care of children, the aged, infirm or place of rest for those suffering bodily disorder, but not containing equipment for surgical care or for

treatment of disease or injury. Said nursing home shall be licensed by the State Board of Health.

(86) **OCCUPANCY.** The purpose for which a building is used or intended to be used. The term shall also include the building or rooms housing such use. Change in occupancy is not intended to include change of tenants or proprietors of a substantially similar use to that which previously existed.

(87) **OFFICE USES.** Those commercial activities that take place in office buildings where goods are not produced, sold or repaired. These include: banks, general offices, professional offices, governmental office, insurance office, real estate office, travel agency or transportation ticket office, telephone exchange, utility office, radio broadcasting and similar uses.

(88) **OPEN SPACE.** Any open area not covered by a structure.

(89) **OPEN SPACE, COMMON.** A parcel or parcels of land and/or an area of water not required for storage of the "regional flood" within a site designated for private open space for the sole benefit, use and enjoyment of the homeowners within a planned unit development or similar developments associated with common open space area.

(90) **OPEN STORAGE.** Storage of any material outside of the building and/or structure.

(91) **ORDINARY HIGH WATER MARK.** A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high water mark is not evident, setbacks shall be measured from the stream bank of the following waters that have permanent flow or open water: the main channel, adjoining side channels, back waters and sloughs.

(92) **PARCEL.** An unplatted tract of land that does not have sufficient street frontage or area, as defined within the Code, to be considered a buildable lot.

(93) **PARKING SPACE.** A suitable surfaced and permanently maintained area either within or outside of a building of sufficient size to store one (1) automobile.

(94) **PEDESTRIAN WAY.** A public or private right-of-way across or within a block to be used by pedestrians.

(95) **PERSON.** An individual, firm, partnership, association, corporation or organization of any kind.

(96) **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.

(97) **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.

(98) **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.

(99) **PREVAILING.** The predominant or most frequent occurrence.

(100) **PRINCIPAL STRUCTURE OR USE.** One which determines the predominant use as contrasted to accessory use or structure.

(101) **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.

(102) **PUBLIC LAND.** Land owned or operated by a municipality, school district, county, state, federal or other governmental unit.

(103) **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.

(104) **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.

(105) **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.

(106) **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.

(107) **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.

(108) **RESTAURANTS, DRIVE-IN.** Restaurants in which the customers are served food at a carry-out counter or service window.

(109) **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.

(110) **ROOM.** A space within a building completely enclosed, except for openings for light, ventilation, ingress and egress.

(111) **SHORE YARD SETBACK.** The minimum horizontal distance between the structure and the ordinary high water mark (see diagram).

(112) **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.

(113) **SOLAR STRUCTURE.** A structure designed to utilize solar energy as an alternative for, or supplement to, a conventional energy system.

(114) **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.

(115) **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.

(116) **STREET.** A public right-of-way which affords primarily means of access to abutting property and shall also include avenue, highway, road or way.

(117) **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.

(118) **TOURIST OR TRANSIENT.** A person who travels to a location away from his or her permanent address for a short period of time for vacation, pleasure, recreation, culture, business or employment (as per Chapter DHS 195, Wis. Stats.).

(119) **TOURIST ROOMING HOUSE.** All lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses not accommodating tourists or transients or bed and breakfast establishments regulated under ch. DSH 197 (as per Chapter DHS 195, Wis. Stats.).

(120) **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.

(121) **USE, ACCESSORY.** A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

(122) **USE, PERMITTED.** A public private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

(123) **USE, PRINCIPAL.** The main use of land or buildings as distinguished from subordinate or accessory uses.

(124) **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.

(125) **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.

(126) **VISION CLEARANCE AREA.** An unoccupied space extending along the full width of the front lot line between side lot lines and extending ten (10) feet from the abutting street right-of-way. Such space shall remain clear of obstructions between three (3) and twelve (12) feet above grade.

(127) **VISION CLEARANCE TRIANGLE.** An unoccupied triangle space at the street corner of a corner lot. The triangle is formed by connecting the point where each street line intersects and two (2) points located ten (10) feet along each street line.

(128) **YARD.** A required open space on the lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Chapter. A yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

(129) **YARD, FRONT.** A yard extending along the full width of the front lot line between the side lot lines and extending from the abutting street right-of-way to the depth required in the setback regulations for the zoning district in which such lot is located. Where irregular lot lines exist, the front yard shall be determined by the Department of Community Development.

(130) **YARD, REAR.** That portion of the yard on the same lot with the principal building located between the rear of the building and the rear lot line extending along the full width of the lot. Where irregular lot lines exist, the rear yard shall be determined by the Department of Community Development.

(131) **YARD, SIDE.** The yard extending along the side lot line between the front and rear

yards to a depth or width required by setback regulations for the zoning district in which such lot is located. Where irregular lot lines exist, the side yard shall be determined by the Department of Community Development.

(132) **ZONING DISTRICT.** An area or areas within the limits of the City for which the regulations and requirements governing use are uniform.

(133) **ZONING MAP.** The map incorporated into this Chapter as a part thereof, designating the zoning districts.

Passed and approved this _____ day of July, 2014.

_____
Donald J. Merkes, Mayor

ATTEST: _____
Deborah A. Galeazzi, City Clerk