

# TITLE VI: ZONING ORDINANCE

## CHAPTER 21: GENERAL PROVISIONS

### SUBCHAPTER 21-0: INTRODUCTION

#### **Section 21.001 Title**

This Title shall be known, cited and referred to as the City of Delavan ZONING ORDINANCE except as referred to herein, where it shall be known as "this Title".

#### **Section 21.002 Authority**

This Title, being Title VI of the Municipal Code and consisting of Chapters 21 through 24 thereof, is enacted pursuant to the authority granted by the State of Wisconsin Statutes. Specific statutory references are provided within the body of this Title solely as a means of assisting the reader. Such references are not to be considered as all inclusive and shall in no manner be construed so as to limit the application or interpretation of this Title. *State Law Reference: Section 62.23(7), 62.231, 87.30 and 144.26, Wisconsin Statutes*

#### **Section 21.003 Legislative Intent**

In enacting this Title, special attention has been given to ensuring a direct relationship of these regulations to the City of Delavan's Comprehensive Master Plan. The general intent of this Title is to implement certain goals and objectives of the Comprehensive Master Plan which are best addressed through zoning approaches, as enabled by State of Wisconsin Statutes.

#### **Section 21.004 Rationale and the Appearance of Ordinance Text**

##### **(1) Rationale**

Throughout this Title, paragraphs labeled "Rationale" are included to ensure a complete understanding of the purpose and reasoning of the City in adopting that particular portion of this Title. Each Rationale is intended as an official statement of the legislative findings or purposes, and shall serve to guide the administrative and judicial interpretation of this Title. The specific rationale expressed in each Rationale section are not intended to be exhaustive, and other non-explicit rationale may also be applicable. These paragraphs have been legislatively adopted together with the more formal text of this Title and shall be treated in the same manner as other aspects of legislative history.

##### **(2) Appearance of Ordinance Text**

The underlined, boldfaced, italicized, alternative point-sized, and/or capitalized typefaces used in this Title are inserted only for convenience, and are in no way to be construed as part of the provisions of this Ordinance or as a limitation on the scope of the particular sections or subsections to which they refer.

### **Section 21.005 Purpose**

- (1) The overall purpose of this Title is to implement the City of Delavan Comprehensive Master Plan to the extent possible under zoning, as authorized by State of Wisconsin Statutes.
- (2) This Title is designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; 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 prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to preserve burial sites as defined in s.157.70(1). *State Law Reference: Section 62.23(7)(c), Wisconsin Statutes*
- (3) Specifically, this Title is adopted for the purpose of protecting the public health, safety, morals, comfort, convenience and general welfare by implementing certain goals and objectives of the Comprehensive Master Plan. Additional purposes of this Title are specified throughout this Title.

Rationale: In developing the specific regulations of this Title, much effort has gone into balancing the goals and objectives of the Comprehensive Master Plan. The current status of this Title and its components (including the Official Zoning Map) represents the cohesive result of carefully considered plan implementation practices. Amendments to these provisions and/or the Official Zoning Map shall seriously consider the effect of such changes on the interrelationships which exist within this Title, and between this document, the Comprehensive Master Plan, and related long-range planning policies and programs. (See Sections 24.902 and 24.903.)

### **Section 21.006 Separability and Non-Liability**

It is hereby declared to be the intention of the Common Council that the several provisions of this Title are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provision of this Title to be invalid, such judgement shall not affect any other provisions of this Title not specifically included in said judgement.
- (2) If any court of competent jurisdiction shall adjudge invalid the application of any portion of this Title to a particular property, water, building, other structure, such judgement shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgement.
- (3) If any requirement or limitation which is attached to an authorization given under this Title is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation.

- (4) The City does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the Common Council, its agencies, or employee for any flood damages, sanitation problems, or structural damages, sanitation problems, or upon, and in conformance with this Title.

#### **Section 21.007 Abrogation**

It is not intended that this Title abrogate or interfere with any constitutionally protected vested right. It is also not intended that this Title abrogate, repeal, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law.

#### **Section 21.008 Application**

- (1) In their interpretation and application, the provisions of this Title shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare, and shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of Delavan.
- (2) Where property is affected by the regulations imposed by any provision of this Title and by other governmental regulations, the regulations which are more restrictive or which impose higher standards or requirements shall prevail. Regardless of any other provision of this Title, no land shall be developed or used, and no structure erected or maintained in violation of any state or federal regulations.
- (3) No structure shall be constructed, erected, modified, converted, enlarged, reconstructed, altered, placed or maintained, and no land shall be used, modified, or maintained for any purpose nor in any manner which is not in conformity with the provisions of this Title.
- (4) Except as provided in this Title, under provisions for Nonconforming Uses (Section 23.207), Nonconforming Developments (Section 23.307), Substandard Lots (Section 23.408), and Nonconforming Structures and Buildings (Section 23.409), no building, structure, development or premises shall be hereinafter used or occupied and no applicable permit granted that does not conform to the requirements of this Title.
- (5) In cases of mixed-occupancy or mixed-use, the regulations for each land use shall apply to the portion of the structure or land so used.
- (6) Except for outlots authorized under Subchapter 23-4: Bulk Regulations or the City's Land Division Regulations to contain permanently protected green space area, no yard or other open space shall be considered as providing a yard or open space for a building or structure on any other lot.

**Section 21.009 Jurisdiction**

This Title is applicable to all territory located within the corporate limits of the City of Delavan.

**Section 21.010 Re-enactment and Repeal**

- (1) This Title, in part, carries forward by re-enactment some of the provisions of the regulations governing zoning and related matters, being previously known collectively as the "Zoning Ordinance", Title VI of the Code of Ordinances for the City of Delavan, adopted prior to the effective date of this Title. It is not the intention of this Title to repeal, but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced, unless explicitly surrendered by specific provisions of this Title or altered by the Official Zoning Map.
- (2) All provisions of Title VI of the City of Delavan Code of Ordinances which are not re-enacted herein are hereby repealed.
- (3) The adoption of this Title shall not adversely affect the City's right to prosecute any violation of the predecessor Zoning Ordinance provided the violation occurred while that Ordinance was in effect.

**Section 21.011 Effective Date**

All plans approved under previous zoning regulations shall be valid and may be used to obtain permits for a period of not more than one year after the effective date of this Title. This Title shall become effective upon passage and posting according to law, following the date of repeal and re-enactment of the Official Zoning Map, which was August 21, 1996.

## **SUBCHAPTER 21-0: DEFINITIONS AND CROSS REFERENCES**

### **Section 21.031 Introduction to Word Usage, Abbreviations and Definitions**

The purpose of Sections 21.031 through 21.034 is to define words, terms and phrases contained in this Title which are essential to the understanding, administration and enforcement of this Title, and some of which are not part of common English usage.

### **Section 21.032 Word Usage**

The interpretation of this Title shall abide by the provisions and rules of this Section, except where the context clearly requires otherwise, or where the result would clearly be inconsistent with the manifest intent of this Title.

- (1) Words used or defined in one tense or form shall include other tenses & derivative forms.
- (2) Words in the singular number shall include the plural number, and words in the plural number shall include the single number.
- (3) The masculine gender shall include the feminine, and vice versa.
- (4) The words "shall", "must" and "will" are mandatory.
- (5) The words "may", "can" and "might" are permissive.
- (6) The word "person" includes individuals, firms, corporations, partnerships, associations, trusts, and any other similar entities.
- (7) The word "City" shall mean the City of Delavan, Wisconsin.
- (8) The word "County" shall mean the County of Walworth, Wisconsin.
- (9) The word "State" shall mean the State of Wisconsin.
- (10) The word "Commission" shall mean the City of Delavan Plan Commission.
- (11) The words "Council", "City Council", and "Common Council" shall refer to the City of Delavan Common Council.
- (12) The word "Board" shall mean the City of Delavan Board of Zoning Appeals.
- (13) If there is any ambiguity between the text of this Title and any caption, illustration, or table, the text shall control.

**Section 21.033 Abbreviations**

(1) The following abbreviations in this Title are intended to have the following meanings:

|         |   |
|---------|---|
| ac      | acre  |
| BC      | Business Central (zoning district)            |
| BL      | Business Local (zoning district)              |
| BN      | Business Neighborhood (zoning district)       |
| BR      | Business Regional (zoning district)           |
| db      | decibel                                       |
| FAR     | Floor Area Ratio                              |
| ft      | foot  |
| GSA     | Gross Site Area                               |
| GSR     | Green Space Ratio                             |
| ISR     | Impervious Surface Ratio                      |
| LSR     | Landscape Surface Ratio                       |
| MG      | Manufacturing General (zoning district)       |
| MH      | Manufacturing Heavy (zoning district)         |
| ML      | Manufacturing Light (zoning district)         |
| max     | maximum                                       |
| MBS     | Maximum Building Size                         |
| MGD     | Maximum Gross Density                         |
| min     | minimum                                       |
| MH      | Maximum Height                                |
| MLA     | Maximum Lot Area                              |
| MSA     | Minimum Site Area                             |
| na      | not applicable                                |
| NDA     | Net Developable Area                          |
| nonres  | nonresidential                                |
| ON      | Office Neighborhood (zoning district)         |
| OP      | Office Park (zoning district)                 |
| res     | residential                                   |
| RE-5ac  | Residential Estate (zoning district)          |
| RS-2    | Residential Single-family-2 (zoning district) |
| RS-3    | Residential Single-family-3 (zoning district) |
| RS-5    | Residential Single-family-5 (zoning district) |
| RM-8    | Residential Mixed-8 (zoning district)         |
| RM-12   | Residential Multi-family-12 (zoning district) |
| RPA     | Resource Protection Area                      |
| RH-35ac | Rural Holding (zoning district)               |
| sf      | square feet                                   |
| 8-      | eight or fewer                                |
| 9+      | nine or more                                  |
| 16+     | sixteen or more                               |
| #F      | number of floors                              |

**Section 21.034: Definitions**

The following words, terms and phrases, wherever they occur in this Title, shall have the meanings ascribed to them by this Section. Definitions provided by this Section include:

**Abate:** To reduce the degree, quantity, or intensity.

**Abutting:** Having a common border with, or being separated from such common border by an alley or easement.

**Access:** A means of vehicular entry to or exit from a property, street or highway.

**Access, secondary:** A means of vehicular or non-vehicular approach, entry to, or exit from property from a source other than a public street or highway.

**Access standards:** See Section 23.702.

**Acre:** 43,560 square feet.

**Accessory use or structure:** A use or structure subordinate to, and serving, the principal use or structure on the same lot and customarily incidental thereto. See Section 23.202(5).

**Active outdoor public recreational (land use):** See Section 23.206(3)(b).

**Activity center:** An area which is typified by a concentration of nonresidential and/or multi-family development.

**Addition:** Any walled and roofed expansion to the perimeter and/or height of a building in which the addition is connected by a common load-bearing wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

**Adjacent:** Abutting, or being located directly across a right-of-way from, a separate lot.

**Agricultural district:** See Section 22.105.

**Agricultural land use(s):** See Section 23.206(2).

**Agricultural services (land use):** See Section 23.206(2)(d).

**Air pollution standards:** See Section 23.710.

**Airport (land use):** See Section 23.206(6)(b).

**Alley:** A public right-of-way usually of reduced width which affords a secondary means of access to abutting property.

**Altered:** The act of changing the appearance of the outside of a structure or pavement. (C-735, 1/21/97)

**Amendment of zoning regulations:** See Section 24.902.

**Amendment of official zoning map:** See Section 24.903.

**Animal unit:** A measure which represents a common denominator for the purposed of defining a husbandry or intensive agricultural land use. The animal unit measure relates to the carrying capacity of one acre of land and is related to the amount of feed various species consume, and the amount of waste they produce. The following table indicates the number of common farm species which comprise a single animal unit:

| ANIMAL UNIT TABLE |                           |                      |                           |                   |                           |
|-------------------|---------------------------|----------------------|---------------------------|-------------------|---------------------------|
| Type of Livestock | # Animals/<br>Animal Unit | Type of Livestock    | # Animals/<br>Animal Unit | Type of Livestock | # Animals/<br>Animal Unit |
| Horse (> 2 yrs)   | 1.0                       | Calves (< 1 yr)      | 4.0                       | Lambs             | 14.0                      |
| Colt (< 2 yrs)    | 2.0                       | Brood Sow or Boar    | 2.5                       | Chickens          | 200.0                     |
| Cattle (> 2 yrs)  | 1.0                       | Hogs (up to 220 lbs) | 5.0                       | Other Poultry     | 200.0                     |
| Cattle (< 2 yrs)  | 2.0                       | Sheep                | 7.0                       |                   |                           |

Source: *The Stockman's Handbook*

**Apartment:** See Section 23.403(14).

**Appeal:** A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this Title as expressly authorized by the provisions of Section 24.912.

**Attic:** That part of a building which is immediately below and wholly or partly within the roof framing.

**Average ground elevation:** The average level of the finished surface of the ground adjacent to the exterior walls of a building or structure.

**Base flood:** The flood having a one percent chance of being equaled or exceeded in any given year. The 100 year flood.

**Basement:** A portion of a building located partly underground, but having one-half or less of its floor to ceiling height below the average grade of the adjoining ground.

**Bed and breakfast establishment (land use):** See Section 23.206(4)(l).

**Bedroom:** A room in a residence marketed, designed, or otherwise likely to function primarily for sleeping.

**Blanket variance:** A variance which is automatically granted by a provision of this Title in order to reduce the creation of legal nonconforming developments (see Section 23.307) or legal nonconforming residential structures (see Section 23.409(9)).

**Board of Zoning Appeals:** See Section 24.934.

**Boarding house (land use):** See Section 23.206(4)(o).

**Bufferyard:** Any permitted combination of distance, vegetation, fencing and berming which results in a reduction of visual and other interaction with an adjoining property. See Subchapter 23-6.

**Building:** A structure built, maintained, or intended for use for the shelter or enclosure of persons, animals, or property of any kind. The term is inclusive of any part thereof. Where independent units with separate entrances are divided by party walls, each unit is a building.

**Building, accessory:** A building which:

- (a) Is subordinate to and serves a principal structure or a principal use;
- (b) Is subordinate in area, extend, and purpose to the principal structure or use served;
- (c) Is located on the same lot as the principal structure or use served except as otherwise expressly authorized by provisions of this Title; and
- (d) Is customarily incidental to the principal structure or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory building.

**Building front:** That exterior wall of a building which faces the front lot line of the lot.

**Building height:** The vertical distance from: (1) the average elevation of the adjoining ground level or (2) the established grade, whichever is lower to the top of 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 uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof. Also applies to structures.

**Building line:** A line on a lot, generally parallel to a lot line or road right-of-way line, located a sufficient distance therefrom to provide the minimum yards required by this Title. The building line determines the area in which buildings are permitted subject to all applicable provisions of this Title. This is also referred to as a "setback".

**Building envelope:** A component of a group development which conforms to the lot lines of developments which are not group developments, in that required minimum setback distances are measured from the building envelope line. (Refer to Sections 23.208, 23.403, and 23.404.)



**Building, principal:** A building in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located.

**Building separation:** The narrowest distance between two buildings. See Minimum Building Separation.

**Building size:** The total gross floor area of a building. See Maximum Building Size.

**Bulk** (of a building): The combination of building height, size, and location on a lot. See Subchapter 23-4.

**Bulkhead Line:** A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

**Business district(s):** See Section 22.102.

**Business Neighborhood (BN) District:** See Section 22.105(3)(c).

**Business Regional (BR) District:** See Section 22.105(3)(d).

**Business Local (BL) District:** See Section 22.105(3)(e).

**Business Central (BC) District:** See Section 22.105(3)(f).

**Cafeteria, company** (land use): See Section 23.206(8)(h).

**Caliper:** A measurement of the size of a tree equal to the diameter of its trunk measurement one-half (0.5) foot above natural grade. Used for trees in a nursery setting.

**Campground** (land use): See Section 23.206(4)(n).

**Candlepower:** The amount of light that will illuminate a surface one foot distant from a light source to an intensity of one footcandle. Maximum (peak) candlepower is the largest amount of candlepower emitted by any lamp, light source, or luminaire.

**Caretaker's Residence:** A dwelling unit which is used exclusively by either the owner, manager, or operator of a principal permitted use and which is located on the same parcel as the principal use.

**Carport** (land use): An open sided, roofed vehicle shelter, usually formed by extension of the roof from the side of a building. See Section 23.206(8)(d)

**Cellar:** That portion of the building having more than one-half (1/2) of the floor-to-ceiling height below the average grade of the adjoining ground.

**Certificate of Occupancy:** See Section 24.909.

**Change of Use:** A change in regular or temporary activity occurring on a property which in the opinion of the Zoning Administrator, changes the classification of property from one land use category in Section 23.206 to another category.

**Clear cutting** (land use): See Section 23.206(2)(g).

**Clerestory window:** A window in which the lowest glassed area is a minimum of seven feet above the level of the floor located directly under the window.

**Climax Tree:** A tree that would occupy the uppermost canopy of a forest in a natural ecological situation. These trees are often referred to as shade trees. Examples include hickory, oak, maple, etc. See Section 23.610.

**Commercial animal boarding** (land use): See Section 23.206(4)(j).

**Commercial apartment** (land use): See Section 23.206(8)(a).

**Commercial district(s):** See Section 22.102.

**Commercial indoor lodging** (land use): See Section 23.206(4)(k).

**Commercial land use(s):** See Section 23.206(4).

**Commercial vehicle:** Any motor vehicle used for business or institutional purposes or having painted thereon or affixed thereto a sign identifying a business or institution or a principal product or service of a business or institution. Agricultural equipment used as part of a permitted agricultural principal use shall not be considered as a commercial vehicle.

**Communication tower** (land use): See Section 23.206(7)(c).

**Community character:** The impression which an area makes in regard to the type, intensity, density, quality, appearance, and age of development.

**Community living arrangement** (land use): See Sections 23.206(3)(g) through (i).

**Compact cluster development:** A development which contains permanently protected open space at a minimum of 50%. See Section 23.206(1)(e).

**Company provided on-site recreation** (land use): See Section 23.206(8)(i).

**Composting operation** (land use): See Section 23.206(5)(f).

**Comprehensive Master Plan:** The Comprehensive Master Plan of the City of Delavan, Wisconsin, adopted in 1991 and as subsequently amended.

**Conditional use:** A land use which requires a conditional use permit in order to develop. See Section 23.202(4). See Section 24.905 for applicable procedures.

**Construction materials standards:** See Section 23.718.

**Construction, Start of:** The installation of foundation footings and/or materials for road construction.

**Contractor's on-site equipment storage** (land use): See Section 23.206(9)(b).

**Contractor's project office** (land use): See Section 23.206(9)(a).

**Conventional residential development:** See Section 23.206(1)(a).

**Cultivation** (land use): See Section 23.206(2)(a).

**Day Care:** See family day care home, intermediate day care home, or group day care center.

**Deck:** A structure that has no roof or walls. Can be attached or detached to the principle structure. If attached, it is required to have main supports and continuous footings below grade by 48" and must be raised above grade and must comply with principle setback requirements, or as modified by Section 23.406(4). If detached, it shall be an accessory structure.

**Dedication:** The transfer of property interest from private to public ownership for a public purpose. The transfer may be of fee-simple interest or of a less than fee-simple interest, including an easement.

**Den:** A room in a dwelling unit containing no closets that is smaller than the prime living room.

**Density:** A term used to describe the number of dwelling units per acre.

**Detailed site analysis map:** See Section 23.510.

**Developer:** The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including an optionee or contract purchaser.

**Development:** The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land; or any clearing, grading, or other movement of land, for which permission may be required pursuant to this Title.

**Development option(s):** The type of residential or nonresidential development as categorized by the proportion of the site devoted to permanently protected green space. See Section 23.304 for residential uses, and Section 23.305 for nonresidential uses.

**Development pad:** The area of a lot within a large lot residential development which is devoted to structures and septic systems. See Section 23.510(2)(d).

**Direct access:** A condition of immediate physical connection resulting from adjacency of a road or right-of-way abutting a property.

**Disposal land use(s):** See Section 23.206(5).

**Distribution center** (land use): See Section 23.206(6)(d).

**Drainage:** The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff, to minimize erosion and sedimentation during and after development, and the means necessary for water supply preservation or prevention or alleviation of flooding.

**Drainage structure** (land use): See Section 23.206(8)(n).

**Drainageway:** See Section 23.506(1).

**Drainage standards:** See Section 23.717.

**Dripline:** Outer perimeter edge of a tree canopy as transferred perpendicularly to ground level.

**Drive-in theater** (land use): See Section 23.206(4)(i).

**Dryland access:** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land which is outside the floodplain, such as a road with its surface above the regional flood elevation and wide enough to accommodate wheeled vehicles.

**Duplex:** See Section 23.403(10).

**Dwelling:** A residential building or one or more portions thereof occupied or intended to be occupied exclusively for residence purpose, but not including habitations provided in nonresidential uses such as lodging uses and commercial campgrounds.

**Dwelling, attached:** A dwelling which is joined to another dwelling at one (1) or more sides by a party wall or walls.

**Dwelling, detached:** A dwelling which is entirely surrounded by open space on the same lot.

**Dwelling, single-family detached:** A dwelling designed for and occupied by not more than one family and having no roof, wall, or floor in common with any other dwelling unit.

**Dwelling unit:** A room or group of rooms, providing or intended to provide living quarters for not more than one (1) family. See Section 23.403(1) through (16).

**Dwelling unit separation:** The narrowest distance between two dwelling units. See Minimum dwelling unit separation.

**Easement:** Authorization by a property owner for another party to use for a specified purpose any designated part of his property.

**Electromagnetic radiation standards:** See Section 23.712.

**Elevated Building:** A non-basement building built to have its lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings columns (post and piers), shear walls, or breakaway walls.

**Encroachment:** Any fill, structure, building, use, or development in the floodway.

**Environmental Control Facility:** Any facility, temporary or permanent, which is reasonably expected to abate, reduce, or aid in the prevention, measurement, control or monitoring of noise, air, or water pollutants, solid waste or thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

**Environs (of the City of Delavan):** The area in which the City of Delavan exercises extraterritorial powers.

**Equestrian development:** A development (which is a form of loose cluster development) which contains permanently protected open space at a minimum of 15% and permits the keeping of horses on private lots or common green space. See Section 23.206(1)(b).

**Erected:** The act of establishing the physical presence of a structure or pavement. (C-735, 1/21/97)

**Erosion:** The detachment and movement of soil or rock fragments by water, wind, ice, and/or gravity.

**Essential Services:** Facilities that are:

- (a) Owned or maintained by public utility companies or public agencies, and;
- (b) Located in public ways or in easements provided for the purpose, or on a customer's premises and not requiring a private right-of-way, and;
- (c) Reasonably necessary for the furnishing of adequate water, sewer, gas, electric, communication, or similar services to adjacent customers, and;
- (d) Not including any cross-country line on towers.

**Explosion standards:** See Section 23.714.

**Extraction use (land use):** See Section 23.206(7)(d).

**Extraterritorial area:** The area outside of the City Limits in which the City of Delavan exercises extraterritorial powers of land division, and/or zoning, review.

**Family:** An individual or two (2) or more persons, each related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four (4) persons not so related, maintaining a common household.

**Family day care home (land use):** See Section 23.206(8)(u).

**Farm residence (land use):** See Section 23.206(8)(c).

**Fees:** See Section 24.935.

**Fencing standards:** See Section 23.720.

**Filling (land use):** See Section 23.206(8)(o).

**Fire standards:** See Section 23.714.

**First habitable floor:** The top surface above an unfinished basement, cellar or crawl space that is intended for living quarters.

**Flood:** A general and temporary condition of partial or complete inundation of normally dry land areas caused by:

- (a) The overflow or rise of inland waters;
- (b) The rapid accumulation or runoff of surface water from any source; and
- (c) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

**Flood frequency:** The probability of a flood occurrence. A flood frequency is generally determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.

**Flood fringe:** That area of the floodplain lying outside of the floodway but still lying within the one hundred (100) year floodplain.

**Flood hazard boundary map (FHBM):** An official map of a community, on which the Federal Emergency Management Agency has delineated the floodway area as "Zone A".

**Flood insurance rate map (FIRM):** An official map of a community, on which the Federal Emergency Management Agency has delineated both the flood fringe and floodway areas.

**Flood insurance study:** The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary map and the water surface elevation of the base flood.

**Flood protection elevation:** An elevation two feet of freeboard above the water surface profile elevation designated for the regional flood.

**Flood storage:** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

**Floodlands:** For the purpose of this Code, the "floodlands" are all lands contained in the "regional flood." For the purpose of zoning regulation, the floodlands are divided into the floodway overlay district, the floodplain conservancy overlay district, and the floodplain fringe overlay district.

**Floodplain:** Those areas along streams or swales inundated by one hundred (100) year flood, comprised of the floodway and flood fringe areas, as designated on the FEMA flood insurance maps. See Section 23.503.

**Floodplain fringe:** Those floodlands, outside the floodway, subject to inundation by the regional flood. For the purpose of this Code, the floodplain fringe includes the floodplain conservancy overlay zoning district and floodplain fringe overlay zoning district.

**Floodplain island:** A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

**Floodproofing:** Structural additions, changes, or adjustments to structures subject to flooding which reduce or eliminate flood damages to a structure, and/or its contents.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas required to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Floor area:** The sum of the gross horizontal areas of the several floors of a building including interior balconies, mezzanines, basements and attached accessory buildings, fitting rooms, stairs, escalators, unenclosed porches, detached accessory buildings utilized as dead storage, heating and utility rooms, inside off-street parking or loading space, Measurements shall be made from the inside of the exterior walls and to the center of interior walls.

**Floor area ratio (FAR):** The ratio calculated by dividing the total floor area of all buildings on a site by the Gross Site Area. See Maximum floor area ratio. See also the Key to Table 23.305, and Section 23.403(1)-(16).

**Footcandle:** A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one candle.

**Freeboard:** Represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors may include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a river or stream bed.

**Freight terminal(land use):** See Section 23.206(6)(c).

**Full floor:** Any floor which is completely or partially habitable per the Building Inspector.

**Garage (residential):** A detached accessory building or portion of the principal building, including a carport, used primarily for storing passenger vehicles, trailers or one (1) truck of a rated capacity not in excess of ten thousand (10,000) pounds. See Section 23.206(8)(d).

**Gas station:** See in-vehicle sales or service.

**General floor plans:** A graphic representation of the anticipated utilization of the floor area within a building or structure, but not necessarily as detailed as construction plans.

**General temporary outdoor sales (land use):** See Section 23.206(9)(e).

**Glare:** The brightness of a light source which causes eye discomfort.

**Glare standards:** See Section 23.713.

**Green space ratio (GSR):** The percentage of the gross site area which is preserved as permanently protected green space. Green space ratio is calculated by dividing the area of permanently protected green space by the Gross Site Area. See Minimum green space ratio. See also, the Key to Table 23.304.

**Gross density:** The result of dividing the number of dwelling units located on a site by the gross site area. See Maximum gross density. See also, the Key to Table 23.304.

**Gross floor area:** The total floor area of a building.

**Gross site area (GSA):** The total area of a site available for inclusion in calculations of the maximum permitted density or intensity of development, as determined by the calculation contained in Section 23.303(3)(a). See minimum site area. See also, the Key to Table 23.304.

**Group day care center (land use):** See Section 23.206(4)(m).

**Group development:** See Section 23.208.

**Habitable buildings:** Any building, or portion thereof used for human habitation.

**Heat standards:** See Section 23.713.

**Hearing Notice:** Publication or posting meeting the requirements of Chapter 985, Stats. Class 1 notice is the minimum required for appeals: Published once at least one week (7 days) before hearing. Class 2 notice is the minimum required for all zoning ordinances and amendments including map amendments: published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

**Height of structure:** See Building Height.

**Heliport (land use):** See Section 23.206(6)(b).

**High flood damage potential:** Any danger to human life or public health or the potential for any significant economic loss to a structure or its contents.

**Historic structure:** (federal rule, October 1990) Any structure that is: (1) listed individually in the National register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs.

**Holding zone:** A zoning district designed to limit development potential until adequate public services and infrastructure are provided.

**Home occupation (land use):** See Section 23.206(8)(s).

**Husbandry (land use):** See Section 23.206(2)(b).

**Increase in regional flood height:** A calculated upward rise in the regional flood elevation, equal or greater than 0.01 foot, resulting in comparison of existing conditions and proposed conditions which is directly attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

**Indoor commercial entertainment (land use):** See Section 23.206(4)(h).

**Indoor institutional (land use):** See Section 23.206(3)(c).

**Indoor maintenance service** (land use): See Section 23.206(4)(e).

**Indoor sales** (land use): See Section 23.206(4)(c).

**Indoor sales accessory to light industrial use** (land use): See Section 23.206(8)(m).

**Indoor service** (land use): See Section 23.206(4)(c).

**Indoor storage** (land use): See Section 23.206(5)(a).

**Indoor wholesaling** (land use): See Section 23.206(5)(a).

**Industrial district(s)**: See Section 22.102.

**Industrial land use(s)**: See Section 23.206(7).

**Infill development**: Development located in areas which are for the most part developed already.

**Institutional land use(s)**: Includes Active and Passive Outdoor Public Recreational, Indoor and Outdoor Institutional, Public Service and Utilities, Institutional Residential, and Community Living Arrangement uses, as defined in Section 23.206(3). (RC-84, 12/14/99)

**Institutional Residential development**: Residential development designed to accommodate land uses such as retirement homes, nursing homes, convents, dormitories, and other similar land uses not considered to be community living arrangements under the provisions of Wisconsin Statutes 62.23. See Section 23.206(3)(f). (RC-84, 12/14/99) See Section 23.206(1)(f).

**Institutional residential unit**: See Section 23.403(15).

**Intensity**: A term used to describe the amount of gross floor area or landscaped area, on a lot or site, compared to the gross area of the lot or site.

**Intensive agricultural** (land use): See Section 23.206(2)(c).

**Interpretation**: See Section 24.911 for application procedures. See also, Section 24.932(2)(n).

**In-vehicle sales** (land use): See Section 23.206(4)(g).

**In-vehicle sales as accessory use** (land use): See Section 23.206(8)(l).

**In-vehicle service** (land use): See Section 23.206(4)(h).

**In-vehicle service as accessory use** (land use): See Section 23.206(8)(l).

**Junkyard** (land use): See Section 23.206(5)(d).

**Lakeshore**: Those lands lying within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond, or flowage; and 300 feet from a river or stream; or to a landward side of the floodplain, whichever distance is the greater. Lakeshores shall not include those lands adjacent to farm drainage ditches where (a) such lands are not adjacent to a navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching or had no previous stream history; and (c) such lands are maintained in non-structural agricultural use. See Section 23.505(1).

**Landscape point**: See Section 23.603.

**Landscaped area**: The area of a site which is planted and continually maintained in vegetation, including grasses, flowers, herbs, garden plants, native or introduced groundcovers, shrubs, bushes, and trees. Landscaped area includes the area located within planted and continually maintained landscaped planters.

**Landscape surface area ratio (LSR)**: The percentage of the gross site area or lot area which is preserved as permanently protected landscaped area. Landscape surface ratio is calculated by dividing the area of permanently protected landscape by the Gross Site Area. See the Key to Table 23.305 and Section 23.403.

**Land use**: The type of development and/or activity occurring on a piece of property.

**Lawn care** (land use): See Section 23.206(8)(p).

**Light industrial** (land use): See Section 23.206(7)(a).

**Light industrial incidental to indoor sales**: See Section 23.206(8)(n).

**Lighting standards:** See Section 23.707.

**Loading standards:** See Section 23.705.

**Local residential street:** A road which primarily serves to collect traffic originating directly from residential driveways and private residential courts and streets.

**Loose cluster development:** A development which contains permanently protected open space at a minimum of 15%. See Section 23.206(1)(c).

**Lot:** A parcel of land that:

- (a) is undivided by any street or private road;
- (b) is occupied by, or designated to be developed for, one (1) building or principal use; and
- (c) contains the accessory buildings or uses customarily incidental to such building, use, or development, including such open spaces and yards as designed and arranged or required by this Title for such building, use, or development.

**Lot area:** The area contained within the property boundaries of a recorded lot. See minimum lot area. See also, Key to Table 23.304 and Key to Table 23.305.

**Lot corner:** A lot situated at the junction of and abutting on two or more intersection streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

**Lot depth:** The mean horizontal distance between the front lot line and the rear lot line of a lot.

**Lot frontage:** Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by this Title shall be provided at each such line.

**Lot interior:** A lot other than a corner lot.

**Lot line:** A lot line is the property line bounding a lot except that where any portion of a lot extends into the public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line for applying this Title.

**Lot line, front:** A lot line which abuts a public or private street right-of-way. In the case of a lot which has two or more street frontages, the lot line along the street from which the house is addressed shall be the front lot line.

**Lot line, rear:** In the case of rectangular or most trapezoidal shaped lots, that lot line which is parallel to and most distant from the front lot line of the lot. In the case of an irregular, triangular, or gore-shaped lot, a line 20 feet in length, entirely within the lot, parallel to and at the maximum possible distance from the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.

**Lot line, side:** Any boundary of a lot which is not a front lot line, a street side lot line, or a rear lot line.

**Lot line, street side:** Any lot line which abuts a public or private street right-of-way which is not the front lot line.

**Lot of record:** A platted lot or lot described in a certified survey map or metes and bounds description which has been approved by the City or by Walworth County; and has been recorded in the office of the Register of Deeds.

**Lot, through:** A lot which has a pair of opposite lot lines abutting two substantially parallel streets (one or more of which may be a portion of a cul-de-sac). Except for through lots which abut an arterial or nonresidential collector street, through lots shall be prohibited under the provisions of this Title.



**Lot width:** The maximum horizontal distance between the side lot lines of a lot, measured parallel to the front lot lines and at the rear of the required front yard. See minimum lot width.

**Lowest floor:** The lowest enclosed floor (including basement). Any unfinished or flood resistant enclosure, usable solely for parking vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosed area is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Title.

**Maintenance guarantee:** A guarantee of facilities or work to either ensure the correction of any failures of any improvements required pursuant to this Title or to maintain same.

**Manufactured dwelling:** Refer to the State of Wisconsin Uniform Dwelling Code (UDC). (C-735, 1/21/97)

**Manufactured home:** Refer to the State of Wisconsin Uniform Dwelling Code (UDC). (C-735, 1/21/97)

**Manufacturing district(s):** See Section 22.102.

**Manufacturing General (MG) District:** See Section 22.105(3)(h).

**Manufacturing Heavy (MH) District:** See Section 22.105(3)(i).

**Manufacturing Light (ML) District:** See Section 22.105(3)(g).

**Master Plan:** A plan, map, report, or other document pertaining to the physical development of the City which has been adopted by the City Plan Commission, as described in Wisconsin Statutes 62.23(2) and (3).

**Maximum building size (MBS):** The largest permitted total gross floor area a building may contain. See building size. See also, the Key to Table 23.305.

**Maximum floor area ratio (FAR):** The largest amount of floor area permitted on a site. See floor area ratio which is calculated by dividing the total floor area of all buildings on a site by the Gross Site Area. See also the Key to Table 23.305 and Section 23.403.

**Maximum gross density (MGD):** The maximum number of dwelling units permitted per acre of Gross Site Area. See gross density. See also the Key to Table 23.304.

**Maximum height:** The maximum height of the highest portion of any structure. See height. See also Sections 23.403 and 23.404.

**Maximum number of floors:** See the Key to Table 23.305.

**Migrant labor camp (land use):** See Section 23.206(8)(v).

**Minimum building separation:** The narrowest permitted building separation. See building separation.

**Minimum dwelling unit separation:** The narrowest permitted dwelling unit separation. See dwelling unit separation. See also, Section 23.403.

**Minimum floor elevation:** The lowest elevation permissible for the construction, erection, or other placement of any floor, including a basement floor.

**Minimum landscape surface ratio (LSR):** The lowest permitted landscape surface ratio. See landscape surface ratio which is calculated by dividing the total area of permanently protected landscape by the Gross Site Area. See also, Sections 23.305 and 23.403.

**Minimum lot area (MLA):** The minimum size lot permitted within the specified zoning district and development option. See also the Keys to Tables 23.304 and 23.305.

**Minimum lot width:** The smallest permissible lot width for the applicable dwelling unit type (Section 23.403) or nonresidential development option (Table 23.404). See also, lot width.

**Minimum setback:** The narrowest distance permitted from a street, side, or rear property line to a structure. See Sections 23.403 and 23.404.

**Minimum site area (MSA):** The minimum gross site area in which the specified development option may occur. See gross site area (GSA). See also the Key to Table 23.304.

**Mini-warehouse:** See Section 23.206(5)(c).

**Mobile home (land use):** See Section 23.403(16).

**Mobile home park:** See Section 23.206(1)(h).

**Mobile Home Park Residential Development:** See Section 23.206(1)(h).

**Mobile Home Residential Development:** See Section 23.206(1)(g).

**Mobile home sales:** See Sections 23.206(4)(d).

**Moderate cluster development:** A development which contains permanently protected open space a minimum of 30%. See Section 23.206(1)(d).

**Motel, Motor Court, Hotel:** See commercial indoor lodging.

**Motor freight terminal:** See freight terminal

**Multiplex:** See Section 23.403(13).

**Museum:** An indoor institutional land use for the purposes of displaying and storing objects of public interest.

**Natural resource protection overlay zoning districts:** Zoning districts which primarily identify and regulate the disturbance of areas containing protected natural resources. See Sections 22.106 and 22.107. See overlay zoning districts.

**Natural resources site evaluation:** See Section 23.303.

**Navigable water:** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all rivers, streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. The Wisconsin Supreme Court has declared navigable all bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. [Muench v. Public Service Commission, 261 Wis. 492 (1952), and DeGaynor and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)] For the purposes of this Ordinance, rivers and streams will be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps until such time that the Wisconsin Department of Natural Resources has made a determination that the waterway is not, in fact, navigable.

**Net developable area (NDA):** The area of a site which may be disturbed by development activity. Net Developable Area is calculated in Section 23.303(3)(c), and is the result of subtracting Required Resource Protection Area (RPA) from the Gross Site Area (GSA).

**Noise standards:** See Section 23.709.

**Nonconforming use:** An active and actual use of land, buildings or structures lawfully existing prior to this Title which has continued as the same use to the present and which does not comply with all the applicable regulations of this Title. See Section 23.207.

**Nonresidential district(s):** See Section 22.102.

**Nonresidential land use(s):** See Section 23.206(2)-(7).

**Noxious matter or materials:** Material capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.

**Noxious materials standards:** See Section 23.715.

**Odor standards:** See Section 23.711.

**Obstruction to flow:** Any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

**Office** (land use): See Section 23.206(4)(a).

**Office district:** See Section 22.102.

**Office Neighborhood (ON) District:** See Section 22.105(3)(a).

**Office Park (OP) District:** See Section 22.105(3)(b).

**Official map:** The map adopted by the Common Council which indicates the existing and proposed location of streets, highways, parks, playgrounds, roads, rights-of-way, waterways, public transit facilities and other public facilities as authorized by State Statutes.

**Official zoning map:** See Sections 22.103, 22.104, and 22.107.

**Off-site parking lot** (land use): See Section 23.206(6)(a).

**On-site:** Located on the lot in question, except in the context of on-site detention, when the term means within the boundaries of the development site as a whole.

**On-site agricultural retail** (land use): See Section 23.206(2)(e).

**On-site composting** (land use): See Section 23.206(8)(t).

**On-site parking lot** (land use): See Section 23.206(8)(b).

**On-site real estate sales office** (land use): See Section 23.206(9)(d).

**Opacity:** The degree to which vision is blocked by bufferyard. Opacity is the proportion of a bufferyard's vertical plane which obstructs views into an adjoining property.

**Open sales lot:** An unenclosed portion of a lot or lot of record where goods are displayed for sale, rent or trade.

**Ordinary high water mark:** The point on the bank or shore of a body of water up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

**Other permanently protected green space:** Permanently protected green space areas which are not constrained by one of the protected natural resources under Subchapter 23-5.

Examples include portions of private lots, outlots, or parcels commonly held by a property owners' association (as in a cluster development) which are deed restricted from site disruption. See Section 23.509.

**Outdoor assembly** (land use): See Section 23.206(9)(g).

**Outdoor commercial entertainment** (land use): See Section 23.206(4)(i).

**Outdoor display** (land use): See Sections 23.206(4)(d).

**Outdoor display incidental to indoor sales** (land use): See Sections 23.206(8)(j) - (k).

**Outdoor institutional** (land use): See Section 23.206(3)(d).

**Outdoor maintenance service** (land use): See Section 23.206(4)(f).

**Outdoor storage** (land use): See Section 23.206(5)(b).

**Outdoor wholesaling** (land use): See Section 23.206(5)(b).

**Overlay zoning district:** A zoning district which imposes uniform restrictions on all properties within its area which are in addition to the restrictions specific to the standard zoning districts described in Section 22.102, as well as the general restrictions of this Title. See Sections 22.106, 22.107, 22.108, 22.109, 22.110, 22.111, 22.112, and Subchapter 23-5.

**Owner:** The person or persons having the right of legal title to a lot or parcel of land.

**Pad, Development:** See Development pad.

**Parcel:** The area within the boundary lines of a lot.

**Park and Recreation land uses:** Areas of open space and outdoor recreational facilities set aside for public use. See Active Outdoor Public Recreation and Passive Outdoor Public Recreation uses as defined in Section 23.206(3)(a)&(b). Also includes public Indoor Institutional uses that provide indoor recreation facilities to the public, such as a community center or YMCA, and may include other accessory indoor entertainment uses affiliated with the public use, for example a snack bar in a golf course clubhouse. (RC-84, 12/14/99)

**Parking standards:** See Section 23.704.

**Parking lot design standards:** See Section 23.704(6)(j).

**Parking requirements:** See Section 23.704(7)(c).

**Parking space design standards:** See Section 23.704(6)(h).

**Passive outdoor public recreational (land use):** See Section 23.206(3)(a).

**Penalty:** See Section 24.936.

**Performance guarantee:** A financial guarantee to ensure that all improvements, facilities, or work required by this Title will be completed in compliance with the Title, regulations and the approved plans and specifications of a development.

**Performance standard:** Criterion established to control and limit the impacts generated by, or inherent in, uses of land or buildings. See Subchapter 23-7.

**Peripheral setback:** The distance between a structure and the boundary of a development option. See Section 23.403.

**Permanently protected green space:** An area in which site disruption and/or development is strictly limited. See Section 23.204.

**Permitted by right, use:** See Section 23.202(2).

**Personal service(s) (land use):** See Section 23.206(4)(b).

**Personal storage facility (land use):** See Section 23.206(5)(c).

**Plan Commission:** The Plan Commission of the City of Delavan. See also Section 24.933.

**Principal building:** See Building, principal.

**Principal use:** Any and all of the primary uses of a property, treated as a use permitted by right, as a special use, or as a conditional use (rather than as an accessory use or a temporary use) per Section 23.206(1)-(7).

**Private Residential Stable:** (Land use) See 23.206(8)(g).

**Private Sewage System:** A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the department of industry, labor, and human relations including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure, or a system located on a different parcel than the structure.

**Professional service(s) (land use):** See Section 23.206(4)(b).

**Protected natural resources:** Resources such as floodways, floodway fringes, floodplain conservancy areas, wetlands, drainageways, woodlands, steep slopes, and lakeshores, which are protected by the provisions of this Ordinance. See Section 22.106 and Subchapter 23-5.

**Public agency:** A local, county, state or federal agency. (C-735, 1/21/97)

**Public Art:** Art that has been issued a Public Art permit under Title 7 Chapter 15 of the City of Delavan Code of Ordinances. Includes works of art in any media that have been planned and executed with the specific intention of being sited or staged in or have the ability to be viewed from the physical public domain, usually outside and accessible to all. Public art includes all forms of visual art originally created by an Artist or under the Artist's direction, whether contemporary or traditional in style that is located outdoors and is visible to the general public. Works of Public Art to be placed in the community may include:

- 1) Sculpture and Kinetic Art: free-standing, wall supported or suspended; in any appropriate material or combination of materials.
- 2) Murals and Paintings: in any appropriate material or variety of materials, with or without collage.
- 3) Mosaics: including tiled composites on walkway, street furniture and wall surfaces.
- 4) Water features: including fountains, waterfalls and decorative pools.
- 5) Earthworks: environmental works in appropriate outdoor sites.
- 6) Glass: including but not limited to ceramics, and lighted glass including neon and plastic.
- 7) Functional Art: including decorative furnishings or fixtures, but not limited to gates, railings, streetlights or seating, if created or decorated by artists as unique elements.

Public Art for which a permit application has not been approved by the Common Council under Title 7 Chapter 15 of the City of Delavan Code of Ordinances shall be subject to the provisions of the applicable sections of the Zoning Code and any other ordinance that regulates signs and land use including any applicable overlay district(s). (RC-345, 9/9/14)

**Public improvement:** Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs such as: streets, roads, alleys or pedestrian walks or paths, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.

**Public property:** A local, county, state or federal agency. (C-735, 1/21/97)

**Public services and utilities (land use):** See Section 23.206(3)(e).

**Public sewer:** Includes the City of Delavan sewer system and other forms of sewer systems approved by the State Department of Natural Resources and maintained by a public agency authorized to operate such systems.

**Recorded lot:** See Lot of record.

**Relocatable building (land use):** See Section 23.206(9)(c).

**Relocated:** The act of changing the location of a structure or pavement. (C-735, 1/21/97)

**Required resource protection area (RPA):** The area of a site which may not be disturbed by development activity and which must also be reserved as permanently protected green space. Required resource protection area is calculated in Section 23.303(3)(b), and is the result of subtracting the net developable area (NDA) from the gross site area (GSA).

**Residential collector street:** A collector street serving primarily residential land uses which primarily serves to connect local residential streets to collector or arterial streets.

**Residential Estate (RE-5ac) District:** See Section 22.105(2)(a).

**Residential Single-family (RS-2) District:** See Section 22.105(2)(b).

**Residential Single-family (RS-3) District:** See Section 22.105(2)(c).

**Residential Single-family (RS-5) District:** See Section 22.105(2)(d).

**Residential Mixed (RM-8) District:** See Section 22.105(2)(e).

**Residential Multi-family (RM-12) District:** See Section 22.105(2)(f).

**Residential district(s):** See Section 22.102.

**Residential kennel, private (land use):** See Section 23.206(8)(f).

**Residential stable, private (land use):** See Section 23.206(8)(g).

**Residential land use(s):** See Section 23.206(1).

**Residential recreational facility, private (land use):** See Section 23.206(8)(e).

**Residentially zoned:** A property located in a residential district per Section 22.102.

**Restrictive, more (less):** A regulation imposed by this Title is more (less) restrictive than another if it prohibits or limits development to a greater (lesser) extent or by means of more (less) detailed specifications.

**Restaurant:** See indoor commercial entertainment.

**Restaurant, fast food:** See in-vehicle sales and service.

**Rural Holding (RH-35ac) District:** See Section 22.105(1)(a).

**Salvage yard** (land use): See Section 23.206(5)(d).

**Scale (of development):** A term used to describe the gross floor area, height, or volume of a single structure or group of structures.

**Seasonal outdoor sales of farm products** (land use): See Section 23.206(9)(f).

**Sedimentation:** The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a result of erosion.

**Selective cutting** (land use): See Section 23.206(2)(f).

**Septic disposal system, individual** (land use): See Section 23.206(8)(q).

**Setback:** The shortest distance between a building's or structure's exterior from the nearest point on the referenced lot line. See minimum setback.

**Sexually-oriented use** (land use): See Section 23.206(4)(p).

**Sheet 2 of Official Zoning Map:** The officially adopted map depicting the boundaries of natural resource protection overlay zoning districts. Where this document has not been officially adopted, it shall be compiled by the property owner and approved by City staff from other applicable source maps and on-site analysis as depicted on a Detailed Site Analysis map as described in Section 23.510(3)(b).

**Shopping center:** See group development.

**Shoreland Multiple-family Residence District:** See Subsection 23-504(1)(h)3.

**Shoreland Single-family Residence District:** See Subsection 23-504(1)(h)2.

**Shorelands:** Those lands lying within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream; or to the landward side of the floodplain, which ever distance is greater. Shorelands shall not include those lands adjacent to farm drainage ditches where (a) such lands are not adjacent to a navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching or had no previous stream history; and (c) such lands are maintained in non-structural agricultural use.

**Shrub:** A low-lying deciduous or evergreen plant. See Section 23.610.

**Sign:** See Section 23.802. See also, Section 23.802 for applicable procedures.

**Single-family detached dwelling unit:** See Section 23.403(1)-(9).

**Site area:** See Gross site area.

**Site plan:** See Section 24.908. See also, Section 24.908 for applicable procedures.

**Skylight:** A window or other paned area located on the ceiling or roof of a structure.

**Solid fence:** Any fence which cannot be seen through. Such fences include basketweave fences, stockade fences, plank fences, and similar fences.

**Special use:** A land use which must be developed per a set of requirements specifically applying to that use. See Section 23.202(3) and Section 24.904 for applicable procedures.

**Standard zoning districts:** Zoning districts which primarily regulate the use of land, and intensity or density of such use. See Sections 22.102, 22.103, and 22.105.

**Stable, commercial:** See commercial animal boarding.

**Stable, private:** See private residential stable.

**Standard Industrial Classification code (SIC):** The numeric code for categorizing land uses developed by the US Department of Commerce. SIC codes in this Title are based on the listing contained within the 1987 manual.

**Start of Construction:** The date the building permit is issued, provided the actual start of activity was within 730 calendar days of the permit date. The actual start of activity means either the first placement of permanent construction of a structure on the site such as the pouring of a slab or footings, the installation of piles, or the construction of columns. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations; nor does it include the erection of temporary forms; nor does it include the

installation on the property of accessory buildings, such as garages or shed not occupied as dwelling units or part of the main structure.

**Steep Slope:** See Section 23.508(1).

**Storage land use(s):** See Section 23.706.

**Storage standards:** See Section 23.706.

**Story:** That portion of a building included between the surface of any floor and the surface of the floor next above; or if there is no floor above, the space between the floor and the ceiling next above. Neither a basement nor a cellar shall be counted as a story.

**Street:** Any public or private way dedicated or permanently open to pedestrian and vehicular use which is twenty-two (22) feet or more in width if it exists at the time of enactment of this Title; and any such public right-of-way sixty-six (66) feet or wider in width when established after the effective date of this Title.

**Street Line:** See Lot line, front.

**Strip development:** A pattern of land uses typified by nonresidential and/or multi-family development located along one or both sides of a street which is generally only one lot deep and which is characterized by many curb cuts, low green space ratios, low landscape surface ratios, high floor area ratios, and/or low quantities of landscaping.

**Structure:** Anything constructed or erected, the use of which requires a more or less permanent location on the ground, stream bed, or lake bed, or attached to something having a permanent location on the ground, stream bed, or lake bed, excepting public utility fixtures and appurtenances.

**Substandard building or structure:** Any building, or other structure, which is lawfully existing under provisions preceding this Title, which would not conform to the applicable regulations if the building or structure were to be erected under the provisions of this Title. See Section 23.409.

**Substandard development:** A lawful development approved under provisions preceding the effective date of this Title, which would not conform to the applicable regulations if the development were to be created under the current provisions of this Title. See Section 23.307.

**Substandard lot:** A lot of record which lawfully existed prior to this Title, which would not conform to the applicable regulations if the lot were to be created under the current provisions of this Title. See Section 23.408.

**Substantial improvement:** Any structural repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either:

- (a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; and
- (b) Any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society, or listed on the National Register of Historic Places.

Ordinary maintenance repairs are not considered structural repairs, modifications or additions. Such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other non-structural components. (For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.)

**Swale:** A linear depression in land running downhill or having a marked change in contour direction in which sheet runoff would collect and form a temporary watercourse.

**Temporary use:** A land use which is present on a property for a limited and specified period of time. See Section 23.206(9). See also Section 24.906 for applicable procedures.

**Townhouse:** See Section 23.403(12).

**Toxic materials standards:** See Section 23.715.

**Transportation land use(s):** See Section 23.206(6).

**Truck stop:** See In-Vehicle sales and service.

**Two-Flat house:** See Section 23.403(11).

**Unnecessary hardship:** The circumstance where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

**Use:** The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

**Use, accessory:** See Accessory use.

**Use, Conditional:** See Conditional use.

**Use, Principal:** See Principal use.

**Use, Special:** See Special use.

**Utility shed (land use):** See Section 23.206(8)(d).

**Variance:** Permission to depart from the literal requirements of this Title granted pursuant to Section 24.910.

**Vibration standards:** See Section 23.708.

**Violation:** See Section 24.936.

**Visibility standards:** See Section 23.703.

**Waste disposal facility (land use):** See Section 23.206(5)(e).

**Waste materials standards:** See Section 23.716.

**Wetland:** An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. See Section 23.504(1).

**Wisconsin Wetland Inventory Map:** Maps prepared by the Southeastern Wisconsin Regional Planning Commission for the Wisconsin Department of Natural Resources, noted as "Final" as of December 12, 1986.

**Woodland:** See Section 23.507(1).

**Working days:** Monday, Tuesday, Wednesday, Thursday or Friday; excluding holidays granted by the City of Delavan to its Department Heads.

**Yard:** A required open space on a lot, which is unoccupied and unobstructed by a structure from its lowest ground level to the sky, except as expressly permitted in this Title. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

**Yard, front:** A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the district in which such lot is located.

**Yard, rear:** A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.

**Yard, side:** A yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

**Zoning Administrator:** The City employee charged with the application and interpretation of this Title. See Section 24.932.

**Zoning district(s):** See Section 22.102.

**Zoning district categories:** See Section 22.102.

**Zoning map:** See "Official zoning map", above.