

CHAPTER 23: ZONING STANDARDS

SUBCHAPTER 23-2: LAND USE REGULATIONS

Section 23.201 Purpose

The purpose of this Subchapter is to indicate which land uses may locate in each zoning district and under what requirements; and which land uses may not locate therein. A further distinction is made for land uses which may locate in a given district only upon obtaining a conditional or temporary use permit to do so. Finally, certain land uses may locate in a given district as a matter of right upon compliance with special regulations for such a land use.

Section 23.202 Interpretation of Land Use Tables

- (1) The land uses listed in Sections 23.203 (Table of Land Uses) and 23.204 (Table of Land Uses Permitted in Permanently Protected Green Space Areas) are specifically designated and refer to the detailed listing of land uses contained in Section 23.206 (Detailed Land Use Descriptions and Regulations).
- (2) **Land Uses Permitted by Right:** Land uses listed as permitted by right (designated as a "P" in Sections 23.203 and 23.204) are permitted per the general land use requirements of this Title (Section 23.205); per the general requirements of the specific zoning district in which they are located; per any additional requirements imposed by applicable overlay zoning districts as designated on the Official Zoning Map; per the general requirements of this Title including Section 24.908; and per any and all other applicable City, County, State, and Federal regulations.
- (3) **Land Uses Permitted as a Special Use:** This category of land uses is subject to certain additional controls than apply to land uses permitted by right, while avoiding the public hearing process required of land uses permitted as conditional uses.
 - (a) Land uses listed as permitted as a special use (designated as an "S" in Sections 23.203 and 23.204) are permitted subject to all of the general zoning requirements applicable to land uses permitted by right (Subsection (2), above), plus certain additional requirements applicable to that particular land use specified in Section 23.206. (See also Section 24.904.)
 - (b) If a proposed land use, listed as a special use, cannot meet one of the special use requirements of Section 23.206 for reasons directly related to the nature of the subject property, the Petitioner of said land use may request Plan Commission and Common Council review for approval as a conditional use, per the requirements of Section 24.905. No more than one special use requirement shall be waived in this manner for any given land use or property. See Subsection (4)(b), below.
- (4) **Land Uses Permitted as a Conditional Use:**
 - (a) Land uses listed as permitted as a conditional use (designated as a "C" in Sections 23.203 and 23.204) are permitted subject to all the requirements applicable to uses permitted by right as listed in Subsection (2), above, plus any additional requirements applicable to that particular land use as contained in Section 23.206 (Detailed Land Use Descriptions and Regulations), including any additional requirements imposed as

part of the conditional use review process. Each application for, and instance of, a conditional use shall be considered a unique situation and shall not be construed as precedence for similar requests. (See also Section 24.905.)

(b) Conditional use requirements also apply to proposed special uses when one of the special use requirements cannot be met. (See Subsection (3)(b), above.) No more than one special use requirement shall be waived in this manner.

(5) Land Uses Permitted as an Accessory Use:

Land uses permitted as an accessory use are permitted subject to all the requirements applicable to uses permitted by right as listed in Subsection (2), above, plus any additional requirements applicable to that particular land use as contained in Section 23.206 (Detailed Land Use Descriptions and Regulations).

(6) Land Uses Permitted as a Temporary Use:

Land uses listed as permitted as a temporary use (designated as a "T" in Sections 23.203 and 23.204) are permitted subject to all the requirements applicable to uses permitted by right as listed in Subsection (2), above, plus any additional requirements applicable to that particular land use as contained in Section 23.206(9) (Detailed Land Use Descriptions and Regulations). (See also Section 24.906.)

(7) Land uses for which a blank space is shown for a specific zoning district are not permitted in such zoning district, except as legal nonconforming uses (see Section 23.207).

(8) Although a land use may be indicated as permitted by right, permitted as a special use, or permitted as a conditional use in a particular district, it does not follow that such a land use is permitted or permissible on every parcel in such district. No land use is permitted or permissible on a parcel unless it can be located thereon in full compliance with all of the standards and regulations of this Title which are applicable to the specific land use and parcel in question, or unless an appropriate variance has been granted pursuant to Section 24.910.

Section 23.203 Tables of Land Uses

This Title regulates the location of land uses to specific zoning districts through the use of the Tables of Land Uses contained in this Section. (See the following pages for these Tables.)

TABLE 23.203(1) TABLES OF LAND USES (RC-319, 6/12/12)

P=Permitted by Right (23.202(2)) **S**=Permitted as a Special Use (23.202(3)) **C**=Permitted as a Conditional Use (23.202(4))

Note: Residential development options vary by zoning district. See Subchapter 22-1 for district standards and Section 23.206(1)(a)-(i) for development options regulations.

ZONING DISTRICT ABBREVIATIONS																	TYPE OF LAND USE				
RH-35	RE-5	RS-2	RS-3	RS-5	RM-8	RM-12	ON	OP	BN	BR	BL	BC	ML	MG	MH	I	IR	PR			
																					DWELLING UNIT TYPES (See 23.403(_))
P	P	P	P	P	P																(1) Single-Family Detached 35 ac lot
	P	P	P	P	P																(2) Single-Family Detached 175,000 sf lot
	C	P	P	P	P																(3) Single-Family Detached 130,000 sf lot
	C	P	P	P	P																(4) Single-Family Detached 80,000 sf lot
	C	P	P	P	P																(5) Single-Family Detached 40,000 sf lot
		P	P	P	P																(6) Single-Family Detached 30,000 sf lot
		P	P	P	P																(7) Single-Family Detached 20,000 sf lot
		C	P	P	C																(8) Single-Family Detached 10,500 sf lot
			C	P	C		P		C				C								(9) Single-Family Detached 8,000 sf lot
					P		C						C								(10) Duplex 5,000 sf (per du)
				C	C	C	C														(11) Two-Flat 4,000 sf (per du)
					C	S	C						C								(12) Townhouse 2,400 sf lot
					C	C	C						C								(13) Multiplex 2,000 sf (per du)
					C		C														(14) Apartment 1,400 sf (per du)
					C		C	C		C	C	C				C	C				(15) Institutional Res. 800 sf (per du)
					C																(16) Mobile Home 5,000 sf lot

RH-35ac Rural Holding
 RE-5ac Residential Estate
 RS-2 Residential Single-family-2
 RS-3 Residential Single-family-3
 I Institutional

RS-5 Residential Single-family-5
 RM-8 Residential Mixed
 RM-12 Residential Multi-family
 ON Office Neighborhood
 IR Institutional Residential

OP Office Park
 BN Business Neighborhood
 BR Business Regional
 BL Business Local
 PR Park and Recreation

BC Business Central
 ML Manufacturing Light
 MG Manufacturing General
 MH Manufacturing Heavy

TABLE 23.203(2) and (3): TABLES OF LAND USES (RC-319, 6/12/12)

P=Permitted by Right (23.202(2)) S=Permitted as a Special Use (23.202(3)) C=Permitted as a Conditional Use (23.202(4))

ZONING DISTRICT ABBREVIATIONS																	TYPE OF LAND USE		
R H - 3 5	R E - 5	R S - 2	R S - 3	R S - 5	R M - 8	R M - 1 2	O N	O P	B N	B R	B L	B C	M L	M G	M H	I	I R	P R	
NONRESIDENTIAL LAND USES																			
AGRICULTURAL USES (23.206(2)(_))																			
P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	(a) Cultivation
C																			(b) Husbandry
C																			(c) Intensive Agriculture
C																	C		(d) Agricultural Service
S																			(e) On-Site Agricultural Retail
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(f) Selective Cutting
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	(g) Clear Cutting
INSTITUTIONAL USES (23.206(3)(_))																			
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(a) Passive Outdoor Public Recreational
S	S	S	S	S	S	S	S	S	S	S	S	S	S						(b) Active Outdoor Public Recreational
C	C	C	C	C	C	C	C	C	C	C	C	C	C						(c) Indoor Institutional
C	C	C	C	C	C	C	C	C	C	C	C	C	C						(d) Outdoor Institutional
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	(e) Public Service and Utilities
						C	C	C		C	C	C							(f) Institutional Residential
S	S	S	S	S	S	S						C							(g) Community Living Arrangement (1-8 res.)
	C	C	C	C	S	S	C	C		C	C	C							(h) Community Living Arrangement (9-15)
						C	C	C		C	C	C							(i) Community Living Arrangement (16+)

RH-35ac Rural Holding
 RE-5ac Residential Estate
 RS-2 Residential Single-family-2
 RS-3 Residential Single-family-3
 I Institutional

RS-5 Residential Single-family-5
 RM-8 Residential Mixed
 RM-12 Residential Multi-family
 ON Office Neighborhood
 IR Institutional Residential

OP Office Park
 BN Business Neighborhood
 BR Business Regional
 BL Business Local
 PR Park and Recreation

BC Business Central
 ML Manufacturing Light
 MG Manufacturing General
 MH Manufacturing Heavy

TABLE 23.203(4): TABLES OF LAND USES (RC-319, 6/12/12)

P=Permitted by Right (23.202(2)) **S**=Permitted as a Special Use (23.202(3)) **C**=Permitted as a Conditional Use (23.202(4))

ZONING DISTRICT ABBREVIATIONS															TYPE OF LAND USE							
RH-35	RE-5	RS-2	RS-3	RS-5	RM-8	RM-12	ON	OP	BN	BR	BL	BC	ML	MG				MH	IR	IR	PR	
																				COMMERCIAL USES (23.206(4)(_))		
								P	P	P	C	P	C	P	P	P				(a) Office		
								P	P	P	C	P	P	C						(b) Personal or Professional Service		
								C	C	C	C	P	P	C						(c) Indoor Sales or Service		
											C	C		S			C			(d) Outdoor Display		
										P	C	P	P	P	P	P				(e) Indoor Maintenance Service		
																	C			(f) Outdoor Maintenance Service		
								C	C	C	C	C	C	C						(g) In-Vehicle Sales or Service		
								C	C	C	C	C	C	C	C					(h) Indoor Commercial Entertainment		
S								S	S	S	S	S	S							(i) Minor Outdoor Commercial Entertainment		
C								C	C	C	C	C	S							(ii) Major Outdoor Commercial Entertainment		
C										C	C									(j) Commercial Animal Boarding		
								C	C		C	C	C	C						(k) Commercial Indoor Lodging		
C	C	C	C	C	C	C	C			C	C	C	C							(l) Bed and Breakfast Establishment		
					C	C	C	C		C	C	C	C	C	C		C	C		(m) Group Day Care Center (9+ children)		
C																				(n) Campground		
						C														(o) Boarding House		
																	C			(p) Sexually-Oriented Land Uses		
								C		C		C	C							(q) Vacation Rental Home (RC-382, 4/18/17)		

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 RM-12 Residential Multi-family
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 ML Manufacturing Light
 MG Manufacturing General
 MH Manufacturing Heavy

TABLE 23.203(5), (6), and (7): TABLES OF LAND USES (RC-319, 6/12/12)

P=Permitted by Right (23.202(2)) **S**=Permitted as a Special Use (23.202(3)) **C**=Permitted as a Conditional Use (23.202(4))

ZONING DISTRICT ABBREVIATIONS															TYPE OF LAND USE						
RH-35	RE-5	RS-2	RS-3	RS-5	RM-8	RM-12	ON	OP	BN	BR	BL	BC	ML	MG				MH	IR	PR	
																			STORAGE/DISPOSAL (23.206(5)(_))		
														P	P	P			(a) Indoor Storage or Wholesaling		
														C	C	C			(b) Outdoor Storage or Wholesaling		
											C		C	C					(c) Personal Storage Facility		
C																C			(d) Junkyard or Salvage Yard		
C																C			(e) Waste Disposal Facility		
C																C			(f) Composting Operation		
															C	C			(g) Recycling and Related Activities (RC-331, 5/14/13)		
																			TRANSPORTATION USES (23.206(6)(_))		
											S	S			S	S			(a) Off-Site Parking Lot		
C								C						C	C	C			(b) Airport/Heliport		
																C			(c) Freight Terminal		
														C	C	C			(d) Distribution Center (RC-364, 4/12/16)		
																			INDUSTRIAL USES (23.206(7)(_))		
														S	S	C			(a) Light Industrial		
																S			(b) Manufacturing Heavy		
C													C	C	C				(c) Communication Tower		
C																			(d) Extraction Use		

RH-35ac Rural Holding
 RE-5ac Residential Estate
 RS-2 Residential Single-family-2
 RS-3 Residential Single-family-3
 I Institutional

RS-5 Residential Single-family-5
 RM-8 Residential Mixed
 RM-12 Residential Multi-family
 ON Office Neighborhood
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BC Business Central
 ML Manufacturing Light
 MG Manufacturing General
 MH Manufacturing Heavy

TABLE 23.203(8): TABLES OF LAND USES (RC-319, 6/12/12)

P=Permitted by Right (23.202(2)) S=Permitted as a Special Use (23.202(3)) C=Permitted as a Conditional Use (23.202(4))

ZONING DISTRICT ABBREVIATIONS																TYPE OF LAND USE			
RH-35	RE-5	RS-2	RS-3	RS-5	RM-8	RM-12	ON	OP	BN	BR	BL	BC	ML	MG	MH	IR	PR		
																			ACCESSORY USES (23.206(8)(_))
								C		C	C	C	C						(a) Commercial Apartment
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	(b) On-Site Parking Lot
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				(c) Farm Residence
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				(d) Detached Private Residential Garage, Carport, or Utility Shed
P / S	P / S	P / S	P / S	P / S	P / S	P / S	P / S	P / S	P / S	P / S	P / S	P / S	P / S	P / S	P / S				(e) Private Residential Recreational Facility
S	C	C																	(f) Private Residential Kennel
S	C																		(g) Private Residential Stable
								P	P		P	P	P	P	P	P	P		(h) Company Cafeteria
								S	S		S	S	S	S	S	S	S		(i) Company Provided On-Site Recreation
								/	/		/	/	/	/	/	/	/		
								C	C		C	C	C	C	C				(j) Outdoor Display Incidental
											C	C	C	C					(k) In-Vehicle Sales and Services
													S	S	S				(l) Indoor Sales Incident to Light Ind. Use
											C	C	C	C					(m) Light Ind. Incidental to Indoor Sales
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	(n) Drainage Structure (See 23.204 also)
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	(o) Filling (See 23.204 also)
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				(p) Lawn Care (See 23.204 also)
C																			(q) Septic Systems (See 23.204 also)
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	(r) Exterior Communication Devices
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S				(s) Home Occupation
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	(t) On-Site Composting and Wood Piles
P	P	P	P	P	P	P													(u) Family Day Care Home
C																			(v) Migrant Labor Camp

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|----------------------------------|----------------------------------|--------------------------|--------------------------|
| RH-35ac Rural Holding | RS-5 Residential Single-family-5 | OP Office Park | BC Business Central |
| RE-5ac Residential Estate | RM-8 Residential Mixed | BN Business Neighborhood | ML Manufacturing Light |
| RS-2 Residential Single-family-2 | RM-12 Residential Multi-family | BR Business Regional | MG Manufacturing General |
| RS-3 Residential Single-family-3 | ON Office Neighborhood | BL Business Local | MH Manufacturing Heavy |
| I Institutional | IR Institutional Residential | PR Park and Recreation | |

TABLE 23.203(9): TABLES OF LAND USES (RC-319, 6/12/12)

T = Permitted as a Temporary Use (23.202(6)) C=Permitted as a Conditional Use (23.202(4))

ZONING DISTRICT ABBREVIATIONS																TYPE OF LAND USE					
RH-35	RE-5	RS-2	RS-3	RS-5	RM-8	RM-12	ON	OP	BN	BR	BL	BC	ML	MG	MH	IR	PR				
																					TEMPORARY USES (23.206(9)(_))
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(a) Contractor's Project Office
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(b) Contractor's On-Site Equipment Storage Facility
								T	T	T	T	T	T	T	T						(c) Relocatable Building
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T						(d) On-Site Real Estate Sales Office
										T	T	T	T	T							(e) General Temporary Outdoor Sales
T										T	T	T	T	T							(f) Seasonal Outdoor Sales of Farm Products
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	(g) Outdoor Assembly
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(h) Limited Duration Special Activities and Events

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|----------------------------------|----------------------------------|--------------------------|--------------------------|
| RH-35ac Rural Holding | RS-5 Residential Single-family-5 | OP Office Park | BC Business Central |
| RE-5ac Residential Estate | RM-8 Residential Mixed | BN Business Neighborhood | ML Manufacturing Light |
| RS-2 Residential Single-family-2 | RM-12 Residential Multi-family | BR Business Regional | MG Manufacturing General |
| RS-3 Residential Single-family-3 | ON Office Neighborhood | BL Business Local | MH Manufacturing Heavy |
| I Institutional | IR Institutional Residential | PR Park and Recreation | |

Section 23.204 Table of Land Uses Permitted in Permanently Protected Green Space Areas

In all developments, certain areas may be required to be set aside as permanently protected green space for the purpose of natural resources protection, to meet a Minimum Green Space Ratio (GSR) requirement, or to meet a Minimum Landscape Surface Ratio (LSR) requirement (see Subchapter 23-3, Density and Intensity Regulations and Subchapter 23-5, Natural Resource Protection Regulations). Where such permanently protected green space is required, and where the land use is also permitted per the land use regulations of the applicable conventional zoning district (see Section 23.203, Table of Land Uses), the following table shall also be employed to establish land use regulations. All land uses listed in Section 23.203 but not listed in this Section are prohibited directly within permanently protected green spaces. Within cluster developments permanently protected green space areas shall be used to protect the site features listed in Table 23.204.

(Table 23.204 is presented on the following page.)

TABLE 23.204: LAND USES PERMITTED IN PERMANENTLY PROTECTED GREEN SPACE AREAS

LAND USE 9	PERMANENTLY PROTECTED GREEN SPACE AREAS								
	FLOODWAY	FLOODPLAIN CONSERVANCY	FLOODWAY FRINGE	SHORELAND - WETLAND	DRAINAGEWAY	LAKESHORE	WOODLAND	STEEP SLOPE	OTHER PERMANENTLY PROTECTED GREEN SPACE
(a) Cultivation									C
(b) Passive Outdoor Recreational					S	S	S	S	S
(c) Active Outdoor Recreational									S
(d) Outdoor Institutional									S
(e) Lawn Care (mow-feed-seed-weed)					C	C	C	C	S
(f) Golf Course					C	C	C	C	C
(g) Any Permitted Temporary Use									S,T
(h) Drainage Structure					C	C	C	C	C
(i) Filling					C	C	C	C	C
(j) Road, Bridge					C	C	C	C	C
(k) Utility Lines & Related Facilities					C	C	C	C	C

S: Permitted as a Special Use per 23.206(10), 23.203, 23.501-40, and 24.904.
C: Permitted as a Conditional Use per 23.206(10), 23.203, 23.501-.510 and 24.905.
T: Permitted as a Temporary Use per 23.206(10), 23.203, 23.501-.510, and 24.906.

Section 23.205 Regulations Applicable to All Land Uses

All uses of land initiated within the jurisdiction of this Title on, or following, the effective date of this Title shall comply with all of the provisions of this Title. Specifically:

(1) **Land Use Regulations and Requirements**

Uses of land shall comply with all the regulations and requirements of Subchapter 23-2 pertaining to the types of uses to which land may be put, and to various requirements which must be met for certain types of land uses within particular zoning districts. Such regulations and requirements address both general and specific regulations which land uses shall adhere to; and which are directly related to the protection of the health, safety and general welfare of the residents of the City of Delavan and its environs.

(2) **Density and Intensity Regulations and Requirements**

Development of land shall comply with all the regulations and requirements of Subchapter 23-3, pertaining to the maximum permitted density (for residential land uses) and intensity (for nonresidential land uses) of land uses. Such regulations and requirements address issues such as Floor Area Ratios (FARs), Green Space Ratios (GSRs), and Landscape Surface Ratios (LSRs); which are directly related to, and are a critical component of, density or intensity and the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.

(3) **Bulk Regulations and Requirements**

Development of land shall comply with all the regulations and requirements of Subchapter 23-4, pertaining to the maximum permitted bulk of structures and the location of structures on a lot. Such regulations and requirements address issues such as height, setbacks from property lines and rights-of-way, and minimum separation between structures; which are directly related to, and a critical component of, the effective bulk of a structure and the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.

(4) **Natural Resources and Green Space Regulations and Requirements**

Land use and/or development of land shall comply with all the regulations and requirements of Subchapter 23-5, pertaining to the protection of sensitive natural resources and required green space areas. Such regulations and requirements address issues such as absolute protection, partial protection, and mitigation; which are directly related to, and a critical component of, the protection of natural resources and the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.

(5) **Landscaping and Bufferyards Regulations and Requirements**

Development of land shall comply with all the regulations and requirements of Subchapter 23-6, pertaining to the provision of landscaping and bufferyards. Such regulations and requirements address issues such as minimum required landscaping of developed land, and minimum required provision of bufferyards between adjoining zoning districts and/or development options; which are directly related to, and a critical component of, the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.

- (6) **Performance Standards and Requirements**
Development of land shall comply with all the regulations and requirements of Subchapter 23-7, pertaining to the provision of appropriate access, parking, loading, storage, and lighting facilities. Such regulations and requirements address issues such as maximum permitted access points, minimum required parking spaces, the screening of storage areas, and maximum permitted intensity of lighting, as well as defining acceptable levels of potential nuisances such as noise, vibration, odors, heat, glare and smoke; which are directly related to, and a critical component of, the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.
- (7) **Signage Regulations and Requirements**
Land use and/or development of land shall comply with all the regulations and requirements of Subchapter 23-8, pertaining to the type and amount of signage permitted on property. Such regulations and restrictions address issues such as the maximum area of permitted signage and the number and types of permitted signage; which are directly related to, and a critical component of, the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.
- (8) **Procedural Regulations and Requirements**
Land use and/or development of land shall comply with all the regulations and requirements of Subchapter 24-9, pertaining to the procedures necessary to secure review and approval of land use and/or development. Such regulations and restrictions address both procedural and technical requirements; and are directly related to, and a critical component of, the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs. At a minimum, all development shall be subject to the requirements of Section 24.908.
- (9) **Number of Buildings Per Lot**
In the RH-35ac, RE-5ac, RS-2, RS-3, and RS-5 Districts, only 1 principal residential building shall be permitted on any 1 lot. In the RM-8, RM-12, ON, OP, BN, BR, BL, BC, ML, MG, and MH Districts, more than 1 principal building shall be permitted on any 1 lot upon the granting of a conditional use permit for a Group Development in compliance with Section 23.208.
- (10) **Number of Land Uses Per Building**
(a) No more than 1 nonresidential land use shall be permitted in any building unless a conditional use permit for a Group Development is granted in compliance with Section 23.208.
(b) With the exceptions of a Commercial Apartment or a Home Occupation, no building containing a nonresidential land use shall contain a residential land use. (See Sections 23.206(8)(a) and 23.206(8)(s).)
- (11) **Division or Combining of a Lot**
No recorded lot shall be divided into 2 or more lots, and no two or more recorded lots shall be combined into one or more lots, unless such division or combination results in the creation of lots, each of which conforms to all of the applicable regulations of the zoning district in which said lot is located (as set forth in this Title).

Section 23.206 Detailed Land Use Descriptions and Regulations

The land use categories employed by this Title (particularly Sections 23.203 and 23.204) are defined in this Section. Land uses which are not listed in this Title are not necessarily excluded from locating within any given zoning district. Section 24.911 empowers the Zoning Administrator to make interpretations on matters regarding specific land use proposals which are not addressed by this Title.

(1) Residential Land Uses (Development Options)

Specific residential unit types (such as single-family detached house, duplex, apartment, etc.) are defined in Section 23.403 and provides standards for each residential unit.

(a) Conventional Residential Development

Description: This land use includes, but is not limited to, all residential developments which do not provide permanently protected green space areas. Property which is under common ownership of a property owners' association is permitted, but is not a required component of this type of development. Up to 10% of a Conventional Residential Development's Gross Site Area (GSA) can contain natural resource areas which must be protected (or other permanently protected green space areas), without a reduction in Maximum Gross Density (MGD). (See note (i) below.)

1. Permitted by Right {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, ON}.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: {ML east of IH 43, south of STH 50 and west of North Shore Drive}. (C-736, 4/8/97)

(b) Equestrian Residential Development

Description: This land use is a form of loose cluster residential development, (see (b)3., below), which permits the keeping of horses on private lots or on common green space. A minimum of 15% of the development's Gross Site Area (GSA) shall be held under common ownership by a homeowners' association. This commonly-held area shall be used to provide equestrian facilities which are available to all residents of the development. These facilities may include common pasture area, group stables, riding trails, training areas, or other land uses typically associated with equestrian activities (including kennel facilities for private, non-commercial hunt club operations). With the exception of riding trails, (which may be linked to a general trail network extending beyond the area of the equestrian development) such areas shall only be used by the residents of the Equestrian Residential Development and their guests, and no facilities within an equestrian development shall be operated as a for-profit commercial venture. Up to 25% of an Equestrian Residential Development's Gross Site Area (GSA) can contain natural resource areas which must be protected (or other permanently protected green space area (per Section 23.304)), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RE-5ac}:
 - a. A minimum of 15% of the Gross Site Area (GSA) of the development shall be held in common ownership by a homeowner's association and shall be devoted to equestrian facilities.

- b. Each lot shall have direct access to an equestrian trail maintained by a homeowner's association.
- c. Any stable facility shall be reserved for the exclusive use of the development's residents. No stable located within an Equestrian Residential Development shall be operated as a for-profit commercial venture.
- d. All stables located on individual lots shall conform to the standards of Section 23.206(8)(g).
- e. All stables serving the Equestrian Residential Development as a whole shall conform to the standards of Section 23.206(4)(k).
- f. Applicant shall provide appropriate deed restrictions and performance bonds to ensure the long-term maintenance and viability of common areas and the development as a whole.
- g. Applicant shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(c) **Loose Cluster Development**

Description: This land use is a residential subdivision which requires that a minimum of 15% of the development's Gross Site Area (GSA) be protected as permanently protected green space (per Section 23.304). This form of development permits slightly higher Maximum Gross Densities (MGDs), and dwelling unit types which require slightly smaller lots, than Conventional Residential Developments within the same zoning district. This density incentive is provided because the provision of the required common green space balances with the density increase to result in a community character which is consistent with such Conventional Residential Developments. Up to 25% of a Loose Cluster Development's Gross Site Area (GSA) can contain natural resource areas which must be protected (or other permanently protected green space area), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations {RE-5ac}:
 - a. Development clusters shall be located so as to blend with adjacent residentially zoned areas to the greatest extent possible.
 - b. If such adjacent areas are developed as a Conventional Residential Development, bufferyards shall be provided within adjoining portions of the Loose Cluster Residential Development (see Section 23.610).
 - c. Applicant shall provide appropriate deed restrictions and performance bonds to ensure the long-term maintenance and viability of common areas and the development as a whole.
 - d. Applicant shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(d) **Moderate Cluster Development**

Description: This land use is a residential subdivision which requires that a minimum of 30% of the development's Gross Site Area (GSA) be protected as permanently protected green space (per Section 23.304). This form of development permits higher Maximum Gross Densities (MGDs), and dwelling unit types which require smaller lots, than Conventional Residential Developments within the same zoning district. This

density incentive is provided because the provision of the required common green space balances with the density increase to result in a community character which is consistent with such Conventional Residential Developments. Up to 50% of a Moderate Cluster Development's Gross Site Area (GSA) can contain natural resource areas which must be protected, (or other permanently protected green space areas), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RE-5ac, RS-3, RM-8, RM-12}:
 - a. Development clusters shall be located so as to blend with adjacent residentially zoned areas to the greatest extent possible.
 - b. If such adjacent areas are developed as a Conventional or Loose Cluster Residential Development, bufferyards shall be provided within adjoining portions of Moderate Cluster Residential Development (see Section 23.610).
 - c. Applicant shall provide appropriate deed restrictions and performance bonds to ensure the long-term maintenance and viability of common areas and the development as a whole.
 - d. Applicant shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(e) Compact Cluster Development

Description: This land use is a residential subdivision which requires that a minimum of 50% of the development's Gross Site Area (GSA) be protected as permanently protected green space (per Section 23.304). This form of development permits substantially higher Maximum Gross Densities (MGDs), and dwelling unit types which require substantially smaller lots, than Conventional Residential Developments within the same zoning district. This density incentive is provided because the provision of the required common green space balances with the density increase to result in a community character which is consistent with such conventional residential developments. Up to 70% of a Compact Cluster Development's Gross Site Area (GSA) can contain natural resource areas which must be protected, (or other permanently protected green space areas), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RE-5ac, RS-2, RM-8, RM-12}:
 - a. Development clusters shall be located so as to blend with adjacent residentially zoned areas to the greatest extent possible.
 - b. If such adjacent areas are developed as a Conventional, Loose, or Moderate Cluster Residential Development, bufferyards shall be provided within adjoining portions of the Compact Cluster Residential Development (see Section 23.610).
 - c. Applicant shall provide appropriate deed restrictions and performance bonds to ensure the long-term maintenance and viability of common areas and the development as a whole.
 - d. Applicant shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(f) Institutional Residential Development

Description: This land use is a form of Moderate Cluster Residential development designed to accommodate institutional residential land uses, such as retirement homes, nursing homes, convents, and dormitories (see Section 23.206(3)(f)). No individual lots are required, although the development shall contain a minimum of 800 square feet of gross site area for each occupant of the development. A minimum of 30% of the development's Gross Site Area (GSA) shall be held as permanently protected green space. (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RM-12, ON, OP, BR, BL, BC}:
 - a. The proposed site shall be located so as to avoid disruption of an established or developing office area. Within the Office Neighborhood (ON) and Office Park (OP) District, institutional residential developments shall be designed so as to maintain the character of the adjacent properties.
 - b. Shall be located with primary vehicular access on a collector or arterial street.
 - c. No access shall be permitted to a local residential street.
 - d. Applicant shall provide off-street passenger loading area at a minimum of one location within the development.
 - e. All structures shall be located a minimum of 50 feet from any residentially zoned property which does not contain an institutional residential land use.
 - f. Applicant shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(g) Mobile Home Residential Development (Subdivision)

Description: This land use is a form of conventional residential development which is exclusively reserved for individually sold lots containing mobile home units. Each of the lots and mobile home units must meet the requirements for mobile homes listed in Section 23.403(22) of this Title. Under this development option, approximately 10% of a development's Gross Site Area (GSA) can contain natural resource areas which must be protected (or other permanently protected green space areas), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RM-8}:
 - a. Development shall be located so as to blend with adjacent residentially zoned areas to the greatest extent possible.
 - b. Mobile Home Residential Developments shall comply with the same landscaping and bufferyard requirements as apartments and Compact Cluster Developments, as specified in Section 23.610 of this Title.
 - c. No access shall be permitted to local residential streets.
 - d. Shall comply with Section 24.905, applicable to all conditional uses.

(h) Mobile Home Park Residential Development (Rental/Condo Park)

Description: This land use is a form of conventional residential development which is exclusively reserved for individually sold or rented air right pads containing mobile home units. Each of the mobile home units must meet the requirements for mobile

homes listed in Section 23.403(22) of this Title. Under this development option, approximately 10% of a development's Gross Site Area (GSA) can contain natural resource areas which must be protected (or other permanently protected green space areas), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RM-8}:
 - a. Development shall be located so as to blend with adjacent residentially zoned areas to the greatest extent possible.
 - b. Mobile Home Park Residential Developments shall comply with the same landscaping and bufferyard requirements as apartments and Compact Cluster Developments, as specified in Section 23.610 of this Title.
 - c. No access shall be permitted to local residential streets.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(i) **Note Regarding Percentage of Green Space and Maximum Density Yield**

This estimate is provided as a general rule of thumb for the convenience of the users of this Title. Such a yield is not to be considered as ensured by the provisions of this Title.

(2) **Agricultural Land Uses**

(a) **Cultivation**

Description: Cultivation land uses include all operations primarily oriented to the on-site, outdoor raising of plants. This land use includes trees which are raised as a crop to be replaced with more trees after harvesting, such as in nursery or Christmas tree operations. The raising of plants for consumption by farm animals is considered cultivation if said plants are consumed by animals which are located off-site.

1. Permitted by Right: {RH-35ac}.
2. Special Use Regulations {All Districts except RH-35ac}:
 - a. On buildable lots, cultivation areas shall not exceed 20% of the lot's area.
 - b. Cultivation areas shall not be located within the required front yard or street yard of any buildable or developed lot.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.
4. Parking Regulations: One space per employee on the largest work shift. (Note: Agricultural land uses are hereby made exempt from the surfacing requirements of Section 23.704(6)(a).)

(b) **Husbandry**

Description: Husbandry land uses include all operations primarily oriented to the on-site raising and/or use of animals at an intensity of less than 1 animal unit (as defined in Section 21.034) per acre. Apiaries are prohibited in the City of Delavan.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.

3. Conditional Use Regulations {RH-35ac}:
 - a. Any building housing animals shall be located a minimum of 300 feet from any residentially zoned property, and 100 feet from all other lot lines.
 - b. All outdoor animal containments (pasture) shall be located a minimum of 10 feet from any residentially zoned property.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
4. Parking Regulations: One space per employee on the largest work shift. (Note: Agricultural land uses are hereby made exempt from the surfacing requirements of Section 23.704(6)(a).)

(c) Intensive Agriculture

Description: Intensive agricultural land uses include all operations primarily oriented to the on-site raising and/or use of animals at an intensity equal to or exceeding 1 animal unit (as defined in Section 21.034) per acre and/or agricultural activities requiring large investments in structures. Examples of such land uses include feed lots, hog farms, poultry operations, fish farms, commercial greenhouse operations and certain other operations meeting this criterion.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac}:
 - a. Shall not be located in, or adjacent to, an existing or platted residential subdivision.
 - b. Shall be completely surrounded by a bufferyard with a minimum intensity of 1.00. (See Section 23.610.)
 - c. All buildings, structures, outdoor storage areas, and outdoor animal containments shall be located a minimum of 300 feet from all residentially zoned property and 100 feet from all other lot lines.
 - d. Shall be located in an area which is planned to remain commercially viable for agricultural land uses.
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per employee on the largest work shift. (Note: Agricultural land uses are hereby made exempt from the surfacing requirements of Section 23.704(6)(a).)

(d) Agricultural Service

Description: Agricultural service land uses include all operations pertaining to the sale, handling, transport, packaging, storage, or disposal of agricultural equipment, products, by-products, or materials primarily used by agricultural operations. Examples of such land uses include agricultural implement sales, storage, or repair operations; feed and seed stores; agricultural chemical dealers and/or storage facilities; animal feed storage facilities; commercial dairies; food processing facilities; canning and other packaging facilities; and agricultural waste disposal facilities (except commercial composting uses, see Section 23.206(5)(f)).

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac, MH}:

- a. Shall not be located in, or adjacent to, an existing or platted residential subdivision.
 - b. All buildings, structures, outdoor storage areas, and outdoor animal containments shall be located a minimum of 100 feet from all lot lines.
 - c. If within the RH-35ac District, shall be located in an area which is planned to remain commercially viable for agricultural land uses.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per employee on the largest work shift. (Note: Agricultural land uses are hereby made exempt from the surfacing requirements of Section 23.704(6)(a).)

(e) **On-Site Agricultural Retail**

Description: On-site agricultural retail land uses include land uses solely associated with the sale of agricultural products grown exclusively on the site. The sale of products grown or otherwise produced off-site shall not be permitted within on-site agricultural retail operations and such activity constitutes retail sales as a commercial land use. Packaging and equipment used to store, display, package or carry products for the convenience of the operation or its customers (such as egg cartons, baskets, containers, and bags) shall be produced off-site.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations {RH-35ac}:
 - a. No structure or group of structures shall exceed 500 square feet in floor area.
 - b. No structure shall exceed 12 feet in height.
 - c. All structures shall meet all required setbacks for nonresidential land uses. (See Section 23.404.)
 - d. Signage shall be limited to 1 on-site sign which shall not exceed 30 square feet in area.
 - e. Such land use shall be served by no more than 1 driveway. Said driveway shall require a valid driveway permit.
 - f. A minimum of one parking space shall be required for every 200 square feet of product display area.
 - g. The sale of products which are grown or otherwise produced on non-adjacent property under the same ownership, or on property under different ownership, shall be prohibited.
 - h. Said structure and fencing shall be located a minimum of 300 feet from any residentially zoned property.
 - i. Shall comply with Section 24.904, procedures applicable to all special uses.
- 3. Conditional Use Regulations: Not applicable.
- 4. Parking Regulations: One space per employee on the largest work shift. (Note: Agricultural land uses are hereby made exempt from the surfacing requirements of Section 23.704(6)(a).)

(f) **Selective Cutting**

Description: Selective cutting land uses include any operation associated with the one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction of trees (including by fire) where the extent of such activity is limited to an area (or

combined areas) of less than or equal to 40% of the woodlands on the property (or up to 100% for developments approved prior to the effective date of this Ordinance). Selective cutting activity shall be limited to areas located within development pads which are designated on recorded Plats or Certified Survey Maps (see Section 23.510). The destruction of trees in an area in excess of this amount of the woodlands on the property shall be considered clear cutting, (see (g), below).

1. Permitted by Right {All Districts}
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: Not applicable.

(g) Clear Cutting

Description: Clear cutting land uses include the one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction (including by fire) of trees in an area (or combined areas) of more than 40% of the woodlands on a property (or up to 100% for developments approved prior to the effective date of this Ordinance). Clear cutting is permitted only as a conditional use within the jurisdiction of this Title. Areas which have been clear cut as a result of intentional action following the effective date of this Title without the granting of a conditional use permit are in violation of this Title and the property owner shall be fined for such violation and shall be required to implement the mitigation standards required for the destruction of woodlands solely at his/her expense, including costs associated with site inspection to confirm the satisfaction of mitigation requirements. Areas which have been cut unintentionally as a result of fire shall not subject the owner of the property to fines associated with the violation of this Title, but shall require the satisfaction of mitigation requirements at the owner's expense, including cost associated with site inspection to confirm the satisfaction of mitigation requirements. (See Section 23.608.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {All Districts}:
 - a. Applicant shall demonstrate that clear cutting will improve the level of environmental protection on the subject property.
 - b. Areas of the subject property which are clear cut beyond the limitations established above, shall be replanted per the requirements of Section 23.507. (Referenced section requires the replanting of trees in other portions of the subject property--thereby freeing the currently wooded area for development while ensuring that the amount of required wooded area on the subject property remains constant.)
 - c. Clear cutting shall not be permitted within a required bufferyard or landscaped area (see Section 23.610), or within an area designated as permanently protected green space (see Subchapter 23-6).
 - d. Shall comply with Section 24.905, applicable to all conditional uses.

(3) Institutional Land Uses

(a) **Passive Outdoor Public Recreational**

Description: Passive outdoor public recreational land uses include all recreational land uses located on public property which involve passive recreational activities. Such land uses include arboretums, natural areas, wildlife areas, hiking trails, bike trails, cross country ski trails, open grassed areas not associated with any particular active recreational land use (see (b), below), picnic areas, picnic shelters, gardens, fishing areas, and similar land uses. Passive Recreation shall also include Public Art as defined in Section 21.034. (RC-345, 9/9/14)

1. Permitted by Right {All Districts}
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: Not applicable.
4. Parking Requirements: One space per four expected patrons at maximum capacity for any use requiring over five spaces.

(b) **Active Outdoor Public Recreational**

Description: Active outdoor public recreational land uses include all recreational land uses located on public property which involve active recreational activities. Such land uses include playcourts (such as tennis courts and basketball courts), playfields (such as ball diamonds, football fields, and soccer fields), tot lots, outdoor swimming pools, swimming beach areas, fitness courses, public golf courses, and similar land uses.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, ON, OP, BN, BR, BL, BC, ML, I (RC-80,11/9/99), IR (RC-80,11/9/99), PR (RC-80,11/9/99)}:
 - a. Facilities using night lighting and adjoining a residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity of 0.60 (see Section 23.610). Said bufferyard shall be located at the property line adjacent to said residentially zoned property.
 - b. All structures and active recreational areas shall be located a minimum of 50 feet from any residentially zoned property.
 - c. Facilities which serve a community-wide function shall be located with primary vehicular access on a collector or arterial street.
 - d. Facilities which serve a regional or community-wide function shall provide off-street passenger loading area if the majority of the users will be children.
 - e. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, ON, OP, BN, BR, BL, BC, ML}:
 - a. Conditional use regulations shall apply to horse trail facilities.
 - b. Shall comply with Section 24.905, procedures applicable to all conditional uses.
4. Parking Regulations: Active Outdoor Public Recreation: one space per four expected patrons at maximum capacity for any use requiring over five spaces.

(c) **Indoor Institutional**

Description: Indoor institutional land uses include all indoor public and not for profit recreational facilities (such as gyms, swimming pools, libraries, museums, and community centers), schools, churches, nonprofit clubs, nonprofit fraternal

organizations, convention centers, hospitals, jails, prisons, and similar land uses.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable. (RC-319, 6/12/12)
3. Conditional Use Regulations {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, I (RC-80, 11/9/99) BR, ON, OP, BN, BL, BC, ML, IR, PR} (RC-319, 6/12/12):
 - a. Shall provide off-street passenger loading area if the majority of the users will be children (as in the case of a school, church, library, or similar land use.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all special uses.
4. Parking Regulations: Generally, one space per three expected patrons at maximum capacity. However, see additional specific requirements below:
 - Church:** one space per five seats at the maximum capacity.
 - Community or Recreation Center:** One space per 250 square feet of gross floor area, or one space per four patrons to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.
 - Funeral Home:** one space per three patron seats at the maximum capacity, plus one space per employee on the largest work shift.
 - Hospital:** two spaces per three patient beds, plus one space per staff doctor and each other employee on the largest work shift.
 - Library or Museum:** one space per 250 square feet of gross floor area or one space per four seats to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.
 - Elementary and Junior High:** one space per teacher and per staff member, plus one space per two classrooms.
 - Senior High:** one space per teacher and staff member, plus one space per five non-bused students.
 - College or Trade School:** one space per staff member on the largest work shift, plus one space per two students of the largest class attendance period.

(d) **Outdoor Institutional**

Description: Outdoor institutional land uses include public and private cemeteries, privately held permanently protected green space areas, country clubs, non-public golf courses, and similar land uses.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {All Districts except MG and MH):
 - a. Shall be located with primary vehicular access on a collector or arterial street.
 - b. Shall provide off-street passenger loading area if a significant proportion of the users will be children.
 - c. All structures and actively used outdoor recreational areas shall be located a minimum of 50 feet from any residentially zoned property.

- d. Facilities using night lighting and adjoining a residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity of 0.60 (see Section 23.610). Said bufferyard shall be located at the property line adjacent to said residentially zoned property.
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: Generally, one space per three expected patrons at maximum capacity. However, see additional specific requirements below:
- Cemetery:** one space per employee, plus one space per three patrons to the maximum capacity of all indoor assembly areas.
 - Golf Course:** 36 spaces per nine holes, plus one space per employee on the largest work shift, plus 50 percent of spaces otherwise required for any accessory uses (e.g., bars, restaurant).
 - Swimming Pool:** one space per 75 square feet of gross water area.
 - Tennis Court:** three spaces per court.
- (e) **Public Service and Utilities**
- Description: Public service and utilities land uses include all Town, County, State and Federal facilities (except those otherwise treated in this Section), emergency service facilities such as fire departments and rescue operations, wastewater treatment plants, public and/or private utility substations, water towers, utility and public service related distribution facilities, and similar land uses.
- 1. Permitted by Right: Not applicable.
 - 2. Special Use Regulations {All Districts}:
 - a. Outdoor storage areas shall be located a minimum of 50 feet from any residentially zoned property.
 - b. All outdoor storage areas adjoining a residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity of .60 (see Section 23.610). Said bufferyard shall be located at the property line adjacent to said residentially zoned property.
 - c. All structures shall be located a minimum of 20 feet from any residentially zoned property.
 - d. The exterior of all buildings shall be compatible with the exteriors of surrounding buildings.
 - e. Shall comply with Section 24.904, procedures applicable to all special uses.
 - 3. Conditional Use Regulations: Not applicable.
 - 4. Parking Regulations: One space per employee on the largest work shift, plus one space per company vehicle normally stored or parked on the premises, plus one space per 500 square feet of gross square feet of office area.
- (f) **Institutional Residential**
- Description: Institutional residential land uses include group homes, convents, monasteries, nursing homes, convalescent homes, limited care facilities, rehabilitation centers, and similar land uses not considered to be community living arrangements under the provisions of Wisconsin Statutes 62.23.
- 1. Permitted by Right: Not applicable.
 - 2. Special Use Regulations: Not applicable.

3. Conditional Use Regulations {RM-12, ON, OP, BR, BL, BC, IR (RC-80, 11/9/99), I (RC-319, 6/12/12)}: See listing for Institutional Residential under Residential Uses, Subsection (1)(f), above.
4. Parking Regulations:
 - Monastery or Convent:** one space per six residents, plus one space per employee on the largest work shift, plus one space per five chapel seats if the public may attend.
 - Nursing Home:** one space per six patient beds, plus one space per employee on the largest work shift, plus one space per staff member and per visiting doctor.

(g) **Community Living Arrangement (1-8 residents)**

Description: Community living arrangement land uses include all facilities provided for in Wisconsin Statutes 46.03(22), including child welfare agencies, group homes for children, and community based residential facilities. Community living arrangements do not include day care centers (see separate listing); nursing homes (an institutional residential land use); general hospitals, special hospitals, prisons, or jails (all indoor institutional land uses). Community living arrangement facilities are regulated depending upon their capacity as provided for in Wisconsin Statutes 62.23.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, IR (RC-80, 11/9/99)}:
 - a. No community living arrangement shall be established within 2,500 feet of any other such facility regardless of its capacity.
 - b. The total capacity of all community living arrangements (of all capacities) in the City shall not exceed 1 percent of the City's population (unless specifically authorized by the Common Council following a public hearing).
 - c. Foster homes housing 4 or fewer children and licensed under Wisconsin Statutes 48.62 shall not be subject to a., above; and shall not be subject to, or count toward, the total arrived at in b., above.
 - d. Shall comply with Section 24.904, procedures applicable to all special uses.
State Law Reference: Section 62.23, Wisconsin Statutes
3. Conditional Use Regulations: {BC, I (RC-319, 6/12/12)}.
4. Parking Regulations: Three spaces.

(h) **Community Living Arrangement (9-15 residents)**

Description: See (g), above.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {RM-8, RM-12, IR (RC-80, 11/9/99)}:
 - a. No community living arrangement shall be established within 2,500 feet of any other such facility, regardless of capacity.
 - b. The total capacity of all community living arrangements (of all capacities) in the City shall not exceed 1 percent of the City's population (unless specifically authorized by the Common Council following a public hearing).
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
State Law Reference: Section 62.23, Wisconsin Statutes
3. Conditional Use Regulations {RE-5ac, RS-2, RS-3, RS-5, ON, OP, BR, BL, BC, I (RC-319, 6/12/12)}:
 - a. Shall meet all regulations for special uses in b., above.

- b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- 4. Parking Regulations: Four spaces.

(i) Community Living Arrangement (16+ residents)

Description: See (g), above.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations {RM-12, ON, OP, BR, BL, BC, IR (RC-80, 11/9/99), I (RC-319, 6/12/12)}:
 - a. No community living arrangement shall be established within 2,500 feet of any other such facility, regardless of capacity.
 - b. The total capacity of all community living arrangements (of all capacities) in the City shall not exceed 1 percent of the City's population (unless specifically authorized by the Common Council following a public hearing).
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses. *State Law Reference: Section 62.23, Wisconsin Statutes*
- 4. Parking Regulations: One space per three residents.

(4) Commercial Land Uses

(a) Office

Description: Office land uses include all exclusively indoor land uses whose primary functions are the handling of information or administrative services. Such land uses do not typically provide services to customers on a walk-in or on-appointment basis.

- 1. Permitted by Right {ON, OP, BN, BL, ML, MG, MH}
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations: {BR, BC (RC-319, 6/12/12)}
- 4. Parking Regulations: One space per 300 square feet of gross floor area.

(b) Personal or Professional Service

Description: Personal service and professional service land uses include all exclusively indoor land uses whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such land uses include professional services, insurance services, realty offices, financial services, medical offices and clinics, veterinary clinics, barber and beauty shops, and related land uses.

- 1. Permitted by Right {ON, OP, BN, BL, BC}
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations {ML, BR}:
 - a. Use shall not conflict with existing industrial uses.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses. *State Law Reference: Section 62.23, Wisconsin Statutes*
- 4. Parking Regulations: One space per 300 square feet of gross floor area.

(c) Indoor Sales or Service

Description: Indoor sales and service land uses include all land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building. This includes self-service facilities such as coin-operated laundromats. Depending on the zoning district, such land uses may or may not display products outside of an enclosed building. Such activities are listed as "Outdoor Display Incidental to Indoor Sales" under "Accessory Uses" in the Table of Land Uses, (Section 23.206(8)(j)). A land use which contains both indoor sales and outdoor sales exceeding 15% of the total sales area of the building(s) on the property shall be considered as an outdoor sales land use, (See (d), below.). Artisan craft production such as consumer ceramics, custom woodworking, or other production activities directly associated with retail sales are regulated as "light industrial uses incidental to retail sales" (see Section 23.206(8)(m)).

1. Permitted by Right {BL, BC}
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {ON, OP, ML, BR, BN (RC-319, 6/12/12)}:
 - a. In office districts, permitted uses shall be limited to indoor sales and personal services which primarily support office tenants such as office supply stores, copy centers and travel agencies. In industrial districts, uses shall not conflict with existing industrial uses.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per 300 square feet of gross floor area.

(d) Outdoor Display

Description: Outdoor display land uses include all land uses which conduct sales, display sales or rental merchandise or equipment outside of an enclosed building. Example of such land uses include vehicle sales, vehicle rental, manufactured and mobile housing sales and monument sales. The area of outdoor sales shall be calculated as the area which would be enclosed by a fence installed and continually maintained in the most efficient manner which completely encloses all materials displayed outdoors. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. (See Subsection (5), below, also.) (Land uses which conduct or display only a limited amount of product outside of an enclosed building, are listed in Sections 23.206(8)(j) as "Outdoor Display Incidental to Indoor Sales".)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: {ML} (RC-44, 7/14/98).
3. Conditional Use Regulations {BR, BL, I (RC-319, 6/12/12)}:
 - a. The display of items shall not be permitted in permanently protected green space areas, required landscaped areas, or required bufferyards.
 - b. The display of items shall not be permitted within required setback areas for the principal structure.
 - c. In no event shall the display of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by the provisions of Section 23.704. If the number of provided parking stalls on the property is already less than the requirement, such display area shall not further reduce the number of parking stalls already present.

- d. Display areas shall be separated from any vehicular parking or circulation area by a minimum of 10 feet. This separation shall be clearly delimited by a physical separation such as a greenway, curb, fence, or line of planters, or by a clearly marked paved area.
 - e. Signs, screenage, enclosures, landscaping, or materials being displayed shall not interfere in any manner with either on-site or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.
 - f. Outdoor display shall be permitted during the entire calendar year, however, if goods are removed from the display area all support fixtures used to display the goods shall be removed within 10 calendar days of the goods' removal.
 - g. Inoperative vehicles or equipment, or other items typically stored or displayed in a junkyard or salvage yard, shall not be displayed for this land use.
 - h. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the display area abutting residentially zoned property, except per e., above (See Section 23.610.).
 - i. Shall comply with Section 24.905 regarding conditional uses.
4. Parking Regulations:
- a. In front of required principal building setback: one space per 300 square feet of gross floor area.
 - b. Behind required principal building setback: one space per 300 square feet of gross floor area.

(e) Indoor Maintenance Service

Description: Indoor maintenance services include all land uses which perform maintenance services (including repair) and contain all operations (except loading) entirely within an enclosed building. Because of outdoor vehicle storage requirements, vehicle repair and maintenance is considered an in-vehicle land use. See Section 23.206(4)(g).

- 1. Permitted by Right {BN, BL, BC, ML, MG, MH}
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations: {BR}
- 4. Parking Regulations: One space per 300 square feet of gross floor area.

(f) Outdoor Maintenance Service

Description: Outdoor maintenance services include all land uses which perform maintenance services, including repair, and have all, or any portion, of their operations located outside of an enclosed building.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations {MH}:
 - a. All outdoor activity areas shall be completely enclosed by a minimum 6 feet high fence. Such enclosure shall be located a minimum of 50 feet from any residentially zoned property and shall be screened from such property by a bufferyard with a minimum opacity of .60 (see Section 23.610).
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- 4. Parking Regulations: One space per 300 square feet of gross floor area.

(g) In-Vehicle Sales or Service

Description: In-vehicle sales and service land uses include all land uses which perform sales and/or services to persons in vehicles, or to vehicles which may or may not be occupied at the time of such activity. Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up, and drive-through facilities, vehicular fuel stations, all forms of car washes, and auto repair and maintenance. If performed in conjunction with a principal land use (for example, a convenience store, restaurant or bank), in-vehicle sales and service land uses shall be considered an accessory use (see Section 23.206(8)(k)).

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {ON, OP, BN, BR, BL, BC, ML}: (C-736, 4/8/97)
 - a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the drive-through lane(s).
 - b. The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
 - c. In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this Section.
 - d. The setback of any overhead canopy or similar structure shall be a minimum of 10 feet from all street rights-of-way lines, a minimum of 20 feet from all residentially-zoned property lines, and shall be a minimum of 5 feet from all other property lines. The total height of any overhead canopy of similar structure shall not exceed 20 feet as measured to the highest part of the structure.
 - e. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material which is designed to meet the requirements of a minimum 4 ton axle load.
 - f. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the property abutting residentially zoned property (Section 23.610).
 - g. Interior curbs shall be used to separate driving areas from exterior fixtures such as fuel pumps, vacuums, menu boards, canopy supports and landscaped islands. Said curbs shall be a minimum of 6 inches high and be of a non-mountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to all property lines.
 - h. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per 50 square feet of gross floor area where the In-Vehicle land use is a stand-alone principle land use. Where the In-Vehicle land use is an accessory use, the parking requirements of the principle land use shall apply. (RC-198, 3/8/05)

(h) Indoor Commercial Entertainment

Description: Indoor commercial entertainment land uses include all land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours which extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health

or fitness centers, all forms of training studios (dance, art, martial arts, etc.) bowling alleys, arcades, roller rinks, and pool halls.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {ON, OP, BN, BR, BL, BC, ML, MG (RC-319, 6/12/12)}:
 - a. If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 100 feet of a residentially zoned property.
 - b. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per every three patron seats or lockers (whichever is greater); or one space per three persons at the maximum capacity of the establishment; (whichever is greater).

(i) **Minor Outdoor Commercial Entertainment** (RC-319, 6/12/12)

Description: Minor Outdoor Commercial Entertainment land uses include all land uses which provide entertainment services partially or wholly outside of an enclosed building. Such activities often have the potential to be associated with nuisances related to noise, lighting, dust, trash and late operating hours. Outdoor entertainment land uses may include, but are not limited to, outdoor eating and drinking areas, and outdoor assembly areas.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: {RH-35ac, ON, OP, BN, BR, BL, BC, ML}
 - a. Facility shall provide bufferyard with minimum opacity of .80 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. Activity areas shall be not be visible from any residentially zoned property.
 - c. Shall comply with Section 24.904, standards and procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.
4. Parking Regulations: One space for every three patron seats at the maximum capacity of the establishment.

(ii) **Major Outdoor Commercial Entertainment** (RC-319, 6/12/12)

Description: Land uses, located on public or private property, that require intensive lighting and generate regional traffic and noise beyond property lines. Major Outdoor Commercial Entertainment uses may include, but are not limited to, amusement parks, water parks, fair grounds, outdoor stadiums, drive-in theaters, outdoor commercial swimming pools, driving ranges, miniature golf facilities, go-cart tracks, racetracks, and tournament-oriented athletic facilities.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: {ML}
3. Conditional Use Regulations {RH-35ac, ON, OP, BN, BR, BL, BC}:
 - a. A bufferyard with a minimum opacity of 1.0 shall be provided along all property abutting residentially zoned property and for any facility requiring night lighting.
 - b. Facilities serving a regional or community-wide function shall provided an off-street passenger loading area if the majority of the users will be children.

- c. A minimum of 100 feet setback shall be required to any activity area other than parking.
4. Parking Regulations: One space for every four patron seats at the maximum capacity of the establishment.

(j) **Commercial Animal Boarding**

Description: Commercial animal boarding facility land uses include land uses which provide short-term and/or long-term boarding for animals. Examples of these land uses include commercial kennels and commercial stables. Exercise yards, fields, training areas, and trails associated with such land uses are considered accessory to such land uses and do not require separate consideration. Animal boarding facilities and activities which, except for parking are completely and continuously contained indoors, are subject to a separate set of regulations (see 5., below.).

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac} and {BR, BL (see below)}:
 - a. A maximum of 1 animal unit per acre of fully enclosed outdoor area (and a maximum of 5 dogs, cats or similar animals) shall be permitted.
 - b. The minimum permitted size of horse or similar animal stall shall be 100 square feet.
 - c. The following setbacks shall be required in addition to those of the zoning district:
 - i. No activity area, including pastures or runs, shall be located closer than 10 feet to any property line.
 - ii. Any building housing animals shall be located a minimum of 300 feet from any residentially zoned property.
 - iii. A vegetative strip at least 100 feet wide shall be maintained between any corral, manure pile, or manure application area and any surface water or well in order to minimize runoff, prevent erosion, and promote nitrogen absorption.
 - d. Special events such as shows, exhibitions, and contests shall only be permitted when a temporary use permit has been secured. (See Section 24.906.)
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Conditional Use Regulations {BR, BL}:
 - a. All activities, except vehicle parking, shall be completely and continuously contained indoors -- including animal exercising and display areas.
 - b. Subsections 3.b., 3.d., and 3.e., above, shall be complied with.
5. Parking Regulations: One space per every 1,000 square feet of gross floor area.

(k) **Commercial Indoor Lodging**

Description: Commercial Indoor Lodging facilities include land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens, and may also provide indoor recreational facilities for the exclusive use of their customers. Typical types of Commercial Indoor Lodging land uses include hotels, motels, inns, hostels, tourist cabins, resorts, timeshare resorts, condo-hotels, residence inns, extended-stay hotels, apartment hotels guest ranches and resort homes. Bed and Breakfast facilities, Campgrounds and Boarding houses are considered as distinct land uses elsewhere in this code. Restaurant, arcades, fitness centers, convention facilities, meeting rooms, rentable banquet halls, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a

separate, principle, land use. Commercial Indoor Lodging land uses are distinguished from Residential land uses by limiting occupancy by any individual or family to no more than 180 days in any period of 365 consecutive days. In instances where occupancy extends to more than 180 days in any period of 365 days, the living unit shall be considered a residential dwelling unit. (RC-199, 3/8/05)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {ON, OP, BR, BL, BC, ML}:
 - a. If located on the same side of a building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 100 feet of a residentially zoned property.
 - b. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - c. Within the ON and OP District, each and every room must take primary access via an individual interior door, and may not be accessed via an external balcony, porch or deck, except for emergency purposes.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per bedroom, plus one space for each employee on the largest work shift.

(l) **Bed and Breakfast Establishment**

Description: Bed and breakfast establishments are exclusively indoor lodging facilities which provide meals only to paying lodgers. Such land uses may provide indoor recreational facilities for the exclusive use of their customers.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, ON, BN, BR, BL, BC}:
 - a. All such facilities shall be required to obtain a permit to serve food and beverages. They shall be inspected annually at a fee as established by a separate ordinance, to verify that the land use continues to meet all applicable regulations.
 - b. 1 sign, with a maximum area of 20 square feet, shall be permitted on the property.
 - c. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - d. No premises shall be utilized for a bed and breakfast operation unless there are at least two (2) exits to the outdoors from such premises. Rooms utilized for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants with an additional thirty (30) square feet for each additional occupant to a maximum of four (4) occupants per room. Each sleeping room used for the bed and breakfast operation shall have a separate operational smoke detector alarm, as required in the Delavan Building Code. One lavatory and bathing facility shall be required for every 10 occupants, in addition to the owner/occupants personal facilities.
 - e. The dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator/owner and said operator/owner shall live on the premises when the bed and breakfast operation is active.
 - f. Only the meal of breakfast shall be served to overnight guests.

- g. Each operator shall keep a list of names of all persons staying at the bed and breakfast operation. This list shall be kept on file for a period of one year. Such list shall be available for inspection by City officials at any time.
 - h. The maximum stay for any occupants of a bed and breakfast operations shall be fourteen (14) days.
 - i. It shall be unlawful for any persons to operate a bed and breakfast operation as defined and as permitted in the Municipal Code of the City of Delavan without first having obtained a conditional use permit and a license. The fee for issuance of a license required under this Ordinance shall be \$75.00 and collected by the office of the City Clerk. The amount of such fee shall be established by the Common Council and shall be in an amount sufficient to defray the cost of inspections and supervision necessary for the implementation and enforcement of this Ordinance. The fees shall be paid at the office of the City Clerk, who shall issue the license in July of each year.
 - j. Application Requirements. Applicants for a license to operate a bed and breakfast shall submit a floor plan of the single-family dwelling unit illustrating that the proposed operation will comply with the City Zoning Ordinance as amended, other applicable City codes and Ordinances, and within the terms of this Ordinance.
 - k. Consideration of Issuance. After application duly filed with the City Clerk for a license under this division, Plan Commission review and recommendation for a conditional use permit, the Common Council shall hold a public hearing and determine whether any further license shall be issued based upon the public convenience and necessity of the people in the City. In the determination by the Common Council of the number of bed and breakfast operations required to provide for such public convenience and necessity, the Common Council shall consider the effect upon residential neighborhoods, conditions of existing holders of licenses, and the necessity of the issuance of additional licenses for public service.
 - l. Public Nuisance Violations. Bed and breakfast operations shall not be permitted whenever the operation endangers, or offends, or interferes with the safety or rights of others so as to constitute a nuisance.
 - m. Suspension, Revocation and Renewal. Any license issued under the provisions of this Ordinance may be revoked by the Common Council for good cause shown after investigation and opportunity to the holder of such license to be heard in opposition thereto; in such investigation the compliance or non-compliance with the state law and local ordinances, the conduct of the licensee in regard to the public, and other consideration shall be weighed in determination of such issue.
 - n. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per each bedroom.

(m) Group Day Care Center (Nine or More Children)

Description: Group day care centers are land uses in which qualified persons provide child care services for nine or more children. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for profit or a not for profit basis. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business, or civic organization. In such instances, group day care centers are not considered as accessory uses and therefore require review as a separate land use.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RM-8, RM-12, ON, OP, BN, BR, BL, BC, ML, MG, I (RC-80, 11/9/99), IR (RC-319, 6/12/12)}
 - a. Facility shall provide a bufferyard with a minimum opacity of .50 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
 - c. Property owner's permission is required as part of the conditional use permit application.
4. Parking Regulations: One space per five students, plus one space for each employee on the largest work shift.

(n) **Campground**

Description: Campgrounds include any facilities designed for overnight accommodation of persons in tents, travel trailers, or other mobile or portable shelters or vehicles.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac}:
 - a. Facility shall provide a bufferyard with a minimum opacity of .70 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One and one-half (1.5) spaces per campsite.

(o) **Boarding House**

Description: Boarding Homes include any residential use renting rooms to four or more people which do not contain private bathroom facilities (with the exception of approved bed and breakfast facilities).

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RM-12}: (RC-319, 6/12/12)
 - a. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. Shall provide a minimum of one on-site parking space for each room for rent.
 - c. Shall be located in an area of transition from residential land uses to nonresidential land uses.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per room for rent, plus one space per each employee on the largest work shift.

(p) **Sexually-Oriented Land Uses**

Description: Sexually-oriented land uses include any facility oriented to the display of sexually-oriented materials such as videos, movies, slides, photos, books, or magazines; or actual persons displaying and/or touching sexually specified areas. For the purpose of this Title, "sexually specified areas" includes any one or more of the following: genitals, anal area, female areola or nipple; and "sexually-oriented material"

includes any media which displays sexually specified area(s). NOTE: The incorporation of this Subsection into this Title is designed to reflect the Common Council's official finding that sexually-oriented commercial uses have a predominant tendency to produce certain undesirable secondary effects on the surrounding community, as has been demonstrated in other, similar jurisdictions. Specifically, the Common Council is concerned with the potential for such uses to limit: the attractiveness of nearby locations for new development, the ability to attract and/or retain customers, and the ability to market and sell nearby properties at a level consistent with similar properties not located near such facilities. It is explicitly not the intent of this Subsection to suppress free expression by unreasonably limiting alternative avenues of communication, but rather to balance the need to protect free expression opportunities with the need to implement the City's Comprehensive Master Plan and protect the character and integrity of its commercial and residential neighborhoods.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {MH}:
 - a. Shall be located a minimum of 1,000 feet from any agriculturally zoned property or residentially zoned property; and shall be located a minimum of 1,000 feet from any school, church, or outdoor recreational facility.
 - b. Exterior building appearance and signage shall be designed to ensure that use does not detract from the ability of businesses in the vicinity to attract customers, nor affect the marketability of properties in the vicinity for sale at their assessed values.
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per 300 square feet of gross floor area, or one space per person at the maximum capacity of the establishment (whichever is greater).

(q) Vacation Rental Home (RC-382, 4/18/17)

Description: A dwelling unit available for overnight, weekend, or weekly stays by paying guests, which may or may not be owner-occupied for parts of the year. These uses are often referred to as "vacation rentals" or "short-term rentals" and include timeshare units. Where such units are available for lease for periods of time longer than 30 consecutive days, such uses shall not be considered Vacation Rental Homes, but shall instead be considered Single Family dwellings, separately described and regulated under this Chapter. Also not included within this land use category are: Bed and Breakfast, Commercial Indoor Lodging, and Boarding House land uses, which are separately described and regulated under this Chapter.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: {ON, BN, BL, BC}
 - a. The property owner or lease holder may be present, or may be absent, during all or part of the time the dwelling unit is used as a Vacation Rental Home.
 - b. The property owner or lease holder may rent the entire dwelling unit or any part of the dwelling unit.
 - c. Occupancy shall be limited to two persons per bedroom, plus an additional two persons not in a bedroom. At no time may the number of guests exceed eight, regardless of the number of bedrooms in the dwelling unit.

- d. The maximum stay for any party, other than the resident owner or lease holder, shall be 30 consecutive days.
- e. The number of guest vehicles allowed on site is limited to the number of bedrooms in the unit. On-street parking by guests is prohibited.
- f. No recreational vehicle or tent may be used for living or sleeping purposes.
- g. The appearance or use of the dwelling and the premises shall not be altered in a manner that would cause the dwelling or the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or signs; or by the emission of sounds, odors, dust, or vibrations that carry beyond the premises.
- h. There shall be no outdoor storage of any kind allowed on the subject property, with the exception of trailers; and watercraft, snowmobiles, or ATVs on trailers.
- i. The availability of the Vacation Rental Home to the public shall not be advertised on the exterior of the premises.
- j. City Room Tax requirements shall be complied with.
- k. A list of these requirements a.-j. shall be provided to each occupant, and shall be clearly posted in each Vacation Rental Home dwelling unit.

4. Minimum required off-street parking: One space per each bedroom.

(5) Storage or Disposal Land Uses

(a) Indoor Storage or Wholesaling

Description: Indoor storage and wholesaling land uses are primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, long-term indoor storage facilities, and joint warehouse and storage facilities. Retail outlets associated with this use shall be considered accessory uses per Subsection 23.206(8)(m), below.

- 1. Permitted by Right {ML, MG, MH}
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations: Not applicable.
- 4. Parking Regulations: One space per 2,000 sf of gross floor area.

(b) Outdoor Storage or Wholesaling

Description: Outdoor storage and wholesaling land uses are primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. Such a land use, in which any activity beyond loading and parking is located outdoors, is considered an outdoor storage and wholesaling land use. Examples of this land use include contractors' storage yards, equipment yards, lumber yards, coal yards, landscaping materials yard, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. (See Subsection (4), below.)

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable. (RC-319, 6/12/12)
- 3. Conditional Use Regulations {MG, ML, MH}: (RC-319, 6/12/12)
 - a. The storage of items shall not be permitted in permanently protected green space areas (see Section 23.608).

- b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space for every 10,000 square feet of gross storage area, plus one space per each employee on the largest work shift.

(c) **Personal Storage Facility**

Description: Personal storage facilities are land uses oriented to the indoor storage of items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Also known as "mini-warehouses".

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {BL, ML, MG}:
 - a. Facility shall be designed so as to minimize adverse visual impacts on nearby developments. The color, exterior materials, and orientation of proposed buildings and structures shall complement surrounding development.
 - b. Facility shall provide a bufferyard with a minimum opacity of .80 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space for each employee on the largest work shift.

(d) **Junkyard or Salvage Yard**

Description: Junkyard or salvage yard facilities are any land or structure used for a salvaging operation including but not limited to: the above-ground, outdoor storage and/or sale of waste paper, rags, scrap metal, and any other discarded materials intended for sale or recycling; and/or the collection, dismantlement, storage, or salvage of 2 or more unlicensed and/or inoperative vehicles. Recycling facilities involving on-site outdoor storage of salvage materials are included in this land use.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac, MH}:
 - a. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. All buildings, structures, outdoor storage areas, and any other activity areas shall be located a minimum of 100 feet from all lot lines.
 - c. In no instance shall activity areas be located within a required frontage landscaping or bufferyard areas.
 - d. Shall not involve the storage, handling or collection of hazardous materials, including any of the materials listed in Section 23.719.
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space for every 20,000 square feet of gross storage area, plus one space for each employee on the largest work shift.

(e) **Waste Disposal Facility**

Description: Waste disposal facilities are any areas used for the disposal of solid wastes including those defined by Wisconsin Statutes 144.01(15), but not including composting operations (see Subsection (f), below).

1. Permitted by Right: Not applicable.

2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac, MH}:
 - a. Shall comply with all County, State and Federal regulations.
 - b. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property (see Section 23.610).
 - c. All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines.
 - d. Operations shall not involve the on-site holding, storage or disposal of hazardous materials (as defined by Section 23.719) in any manner.
 - e. Required site plans shall include detailed site restoration plans, which shall include at minimum, detailed grading and revegetation plans, and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110% of the costs determined to be associated with said restoration (as determined by a third party selected by the City), shall be filed with the City by the Petitioner (subject to approval by the City Administrator), and shall be held by the City for the purpose of ensuring that the site is restored to its proposed condition. (The requirement for surety is waived for waste disposal facilities owned by public agencies.)
 - f. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses. *State Law Reference: Section 144, Subchapter IV, Wisconsin Statutes*
4. Parking Regulations: One space for each employee on the largest work shift.

(f) Composting Operation

Description: Composting operations are any land uses devoted to the collection, storage, processing and or disposal of vegetation.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac, MH}:
 - a. Shall comply with all County, State and Federal regulations.
 - b. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property occupied by non-agricultural land uses (see Section 23.610).
 - c. All buildings, structures, and activity areas shall be located a minimum of 100 feet from all lot lines.
 - d. No food scraps or other vermin-attracting materials shall be processed, stored or disposed of on-site.
 - e. Operations shall not involve the on-site holding, storage or disposal of hazardous wastes as defined by State Statutes in any manner.
 - f. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space for each employee on the largest work shift.

(g) Recycling and Related Activities (RC-331, 5/14/13)

Description: Recycling and Related Activities facilities are any land, building or structure used for recycling and related activities including, but not limited to, materials handling, materials sorting, and materials processing; all of which, except for storage, occur within buildings. Land uses performing similar activities all or partially outdoors; land uses involving organic products or waste other than paper, cardboard and related materials; and/or land uses involving intact vehicles; shall be regulated under other land use type categories.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {MG, MH}:
 - a. All activities other than employee, customer and commercial vehicle parking (and facilities approved in Subsection c., below) shall occur within a building which is fully enclosed by roof and walls on all sides; except that materials awaiting sorting or shipping may be stored in bins, fully enclosed truck trailers and truck boxes, and rail cars
 - b. Building openings shall be limited to windows, doors and loading bays; all of which shall be designed to be fully closed; with the exception of one building opening which may not exceed 2,400 square feet nor more than a 40 foot high opening. Such an opening shall be screened per e., below.
 - c. No outdoor storage or handling of materials to be sorted or shipped is permitted unless fully confined to storage containers, storage bins, truck trailers or truck boxes, rail cars or related devices which are explicitly identified and located on an approved site plan, and screened from view from adjacent properties and rights-of-way with a bufferyard with a minimum opacity of .6. Such storage areas shall be paved with concrete or asphalt. Such outdoor storage shall also require the approval of a conditional use permit for Outdoor Storage land uses.
 - d. Facility shall provide a bufferyard with a minimum opacity of .6 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - e. Facility shall provide a bufferyard with a minimum opacity of .8 to screen the view of any non-closable building opening from any and all adjacent properties and rights-of-way to a degree approved in the conditional use permit.
 - f. In no instance shall any activity areas (including, but not limited to, storage or parking) be located within a required landscaping or bufferyard area.
 - g. The use shall not involve the storage, handling or collection of hazardous materials, including any of the materials listed in Section 23.719; or of organic materials other than paper, cardboard and related materials as determined by the City.
 - h. No burning or incineration of materials is permitted. Torches may be used to cut metal.
 - i. The applicant shall provide the routing of commercial vehicles to and from the facility within the city limits and the extraterritorial area. Said routing shall demonstrate that such routing is limited to designated truck routes wherever possible.
 - j. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space for each employee on the largest work shift.

(6) **Transportation Land Uses**

(a) **Off-Site Parking Lot**

Description: Off-site parking lots are any areas used for the temporary parking of vehicles which are fully registered, licensed and operative. See also Section 23.704 for additional parking regulations.

1. Permitted Use Regulations: Not applicable.
2. Special Use Regulations {BL, BC, MG, MH}:

- a. Access to off-site parking shall be permitted only to a collector or arterial street.
 - b. Access and vehicular circulation shall be designed so as to discourage cut-through traffic.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.
 4. Parking Regulations: No requirement.

(b) Airport/Heliport (RC-355, 6/9/15)

Description: Airports and heliports are transportation facilities providing takeoff, landing, servicing, storage and other services to any type of air transportation. The operation of any type of air vehicle (including ultralight aircraft, hang gliders, parasails, and related equipment, but excepting model aircraft) within the jurisdiction of this Title shall occur only in conjunction with an approved airport or heliport.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac, OP, ML, MG, MH}:
 - a. All buildings, structures, outdoor airplane or helicopter storage areas, and any other activity areas shall be located a minimum of 50 feet from all front lot lines, side lot lines, and rear lot lines, and a minimum of 100 feet from all street rights-of way.
 - b. Hangars and other principal buildings shall be separated by a minimum of 50 feet, and shall not exceed 50 feet in height.
 - c. All areas of the site located within 100 feet of airport or heliport buildings shall comply with the bufferyard requirements of the ML zoning district, except where said bufferyard would interfere with airport height limitations or flight operations. (See Section 23.610).
 - d. Hangars shall not be used for residential or lodging land uses.
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per each employee on the largest work shift, plus one space per every 5 passengers based on average daily ridership.

(c) Freight Terminal

Description: Freight terminals are defined as land and buildings representing either end of one or more truck carrier line(s) which may have some or all of the following facilities: yards, docks, management offices, storage sheds, buildings and/or outdoor storage areas, freight stations, and truck maintenance and repair facilities, principally serving several or many businesses and always requiring trans-shipment.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {MH}:
 - a. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. All buildings, structures, outdoor storage areas, and any other activity areas shall be located a minimum of 100 feet from all lot lines abutting residentially zoned property.
 - c. In no instance shall activity areas be located within a required frontage landscaping or bufferyard areas.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per each employee on the largest work shift.

(d) **Distribution Center**

Description: Distribution centers are facilities oriented to the short-term indoor storage and possible repackaging and reshipment of materials involving the activities and products of a single user. Retail outlets associated with this use shall be considered accessory uses per Subsection 23.206(8)(m), below.

1. Permitted by Right: Not applicable. (RC-364, 4/12/16)
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {ML, MG, MH }: (RC-364, 4/12/16)
 - a. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. All buildings, structures, outdoor storage areas, and any other activity areas shall be located a minimum of 100 feet from all lot lines abutting residentially zoned property.
 - c. In no instance shall activity areas be located within a required frontage landscaping or bufferyard areas.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per each employee on the largest work shift.

(7) **Industrial Land Uses**

(a) **Light Industrial Land Use**

Description: Light industrial land uses are industrial facilities at which all operations (with the exception of loading operations): 1) are conducted entirely within an enclosed building; 2) are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; 3) do not pose a significant safety hazard (such as danger of explosion); and 4) comply with all of the performance standards listed for potential nuisances in Subchapter 23-- Light industrial land uses may conduct retail sales activity as an accessory use provided that the requirements of Subsection (8)(m), below, are complied with.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: {ML, MG}. (RC-319, 6/12/12)
 - a. All exterior development, including modified or new structures and paved areas, shall be subject to site plan review and approval by the Industrial Development Design Review Committee. (RC-319, 6/12/12)
3. Conditional Use Regulations: {MH}. (RC-92, 3/15/00) (RC-319, 6/12/12)
 - a. All activities, except loading and unloading, shall be conducted entirely within the confines of a building.
 - b. Shall comply with Section 24.904, procedures applicable to all special uses.
4. Parking Regulations: One space per each employee on the largest work shift.

(b) **Manufacturing Heavy Industrial Land Use**

Description: Heavy industrial land uses are industrial facilities which do not comply with 1 or more of the following criteria: 1) are conducted entirely within an enclosed building; 2) are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and 3) do not pose a significant safety hazard (such as danger of explosion). More specifically, heavy industrial land uses are industrial land uses which may be wholly or partially located

outside of an enclosed building; may have the potential to create certain nuisances which are detectable at the property line; and may involve materials which pose a significant safety hazard. However, in no instance shall a heavy industrial land use exceed the performance standards listed in Subchapter 23-7. Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers) including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical production facilities, electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials. (RC-117, 6/12/01)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable. (RC-111, 5/8/01)
3. Conditional Use Regulations {MH}: (RC-111, 5/8/01)
 - a. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property abutting properties which are not zoned (MH) (see Section 23.610).
 - b. All outdoor activity areas shall be located a minimum of 100 feet from residentially zoned property. No materials shall be stacked or otherwise stored so as to be visible over bufferyard screening elements.
 - c. Shall comply with Section 24.904, procedures applicable to all conditional uses.
4. Parking Regulations: One space per each employee on the largest work shift.

(c) Communication Tower

Description: Communication towers include all free-standing broadcasting, receiving, or relay structures, and similar principal land uses; and any office, studio or other land uses directly related to the function of the tower.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Requirements {RH-35ac, RS-3, ML, MG, MH (RC-319, 6/12/12)}: (RC-27, 2/10/98)
 - a. Tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse shall be completely contained on the property.
 - b. The installation and continued maintenance of a bufferyard with a minimum opacity of .80 along borders of the lot abutting residentially zoned property (see Section 23.610).
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per employee on the largest work shift.

(d) Extraction Use

Description: Extraction uses include and land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, or other material in excess of that required for approved on-site development or agricultural activities.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac}:
 - a. Shall receive approval from Walworth County prior to action by the City of Delavan, and shall comply with all County, State and Federal regulations.

- b. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property (see Section 23.610).
 - c. All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines.
 - d. Required site plans shall include detailed site restoration plans, which shall include at minimum, detailed grading and revegetation plans, and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110% of the costs determined to be associated with said restoration (as determined by a third party selected by the City), shall be filed with the City by the Petitioner (subject to approval by the Zoning Administrator), and shall be held by the City for the purpose of ensuring that the site is restored to its proposed condition. (The requirement for said surety is waived for waste disposal facilities owned by public agencies.)
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per each employee on the largest work shift.

(8) Accessory Land Uses

Accessory uses are land uses which are incidental to the principal activity conducted on the subject property. Only those accessory uses listed in Table 23.203 shall be permitted within the jurisdiction of this Title. With the exception of a commercial apartment (see (a), below), or a farm residence (see (c), below), in no instance shall an accessory use, cellar, basement, tent or recreational trailer be used as a residence. With the exception of farm buildings, accessory buildings located within a residential district shall be constructed or finished in a complimentary architectural style and with complimentary materials to the principal residential buildings in the neighborhood. Accessory uses shall not be located between a principal building and a street frontage on the same lot, nor within any required front yard or street side yard, except an accessory structure may be located in a side yard providing the structure complies with the setback requirements applicable to the principal structure. (RC-15, 9/16/97)

(a) Commercial Apartment

Description: Commercial apartments are dwelling units which are located above the ground floor of a building used for a commercial land use (as designated in Subsection (4), above). Commercial apartments are considered an accessory use to the principal use of the structure, typically office, personal or professional service, or indoor sales or service. Because they are an accessory use, the presence of commercial apartments within a structure does not create a Group Development. The primary advantage of commercial apartments is that they are able to share required parking spaces with nonresidential uses. (RC-319, 6/12/12)

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations {BN, BR, BL, BC, ON (RC-317, 5/15/12) (RC-319, 6/12/12)}:
 - a. The gross floor area devoted to commercial apartments shall be counted toward the floor area of a nonresidential development.
 - b. A minimum of 1 off-street parking space shall be provided for each bedroom within a commercial apartment. Parking spaces provided by nonresidential land uses on the site may be counted for this requirement with the approval of the Zoning Administrator.
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(b) **On-Site Parking Lot**

Description: On-site parking lots are any areas located on the same site as the principal land use which are used for the temporary parking of vehicles which are fully registered, licensed and operative. Refer also to Section 23.704.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {All Districts}:
 - a. Access to an off-site parking lot shall only be permitted to a collector or arterial street.
 - b. Access and vehicular circulation shall be designed so as to discourage cut-through traffic.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.

(c) **Farm Residence**

Description: A farm residence is a single-family detached dwelling unit located on the same property as any of the principal agricultural land uses listed in Subsection (2), above.

1. Permitted by Right {All Districts}
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: Not applicable.

(d) **Detached Private Residential Garage, Carport, or Utility Shed (RC-98, 6/13/00)**

Description: A private residential garage, carport or utility shed is a structure which primarily accommodates the sheltered parking of a passenger vehicle and/or the storage of residential maintenance equipment. It may be located on the same lot as a residential unit or units, or on a separate lot in conjunction with a residential land use. See Section 23.409 for requirements applicable to legal, nonconforming garages. Garages, carports and utility sheds in excess of 1,000 square feet of gross floor area are not permitted in residential districts except as conditional uses. (Also see Sec. 23.206(8).)

1. Permitted by Right {All Districts, if under 1,000 sq. ft.}
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: In excess of 1,000 sq. feet.

(e) **Private Residential Recreational Facility (RC-353, 6/9/15)**

Description: This land use includes all active outdoor recreational facilities located on a private residential lot which are not otherwise listed in Table 23.203. Materials and lighting shall limit light levels at said property line are to be equal to or less than 0.5 foot candles (see Section 23.707). All private residential recreation facilities and their attendant structures shall comply with the bulk requirements for accessory structures. (See Subchapter 23-4.) Common examples of these accessory uses include basketball courts, tennis courts, swimming pools, and recreation-type equipment.

1. Permitted by Right: (All accessory uses except swimming pools). {All Districts}
2. Special Use Regulations (for swimming pools) {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12}:
 - a. **Swimming Pools:**

No person shall construct, maintain, install or enlarge any swimming pool within the City of Delavan, except in compliance with the provisions of this code enacted by the City for public safety pursuant to the International Swimming Pool and Spa Code 2012 (ISPSC).

1. Swimming pool definition:

- a. Means a receptacle for water, or any artificial pool of water having a depth at any point of more than two (2) feet, intended for the purpose of immersion or partial immersion therein of human beings, and including all appurtenant equipment.
2. Location:
 - a. No portion shall be located at a distance not less than 10 feet from any side or rear property line, or building line. Pumps, filters and pool water disinfection equipment installation shall be located at a distance not less than 10 feet from any side property line.
3. Permit required:
 - a. No person shall construct, install, enlarge, or alter any private residential swimming pool and appurtenances thereto within City unless a permit therefor shall have first been obtained from the Building Inspector. All private residential swimming pools, appurtenances, water supply and drainage systems shall be constructed in conformity with the approved plans therefor and with this code.
4. Pool Maintenance:
 - a. The systems supplying recirculated water and makeup water to the pool shall be constructed in conformance with this code and the plumbing code of the state of Wisconsin.
 - b. Pools shall be equipped with facilities for completely emptying the pool and the discharge of the pool water to the storm sewer and shall be at a rate not to exceed 200 gallons per minute. No direct connection shall be made to any sanitary sewer for the draining of the pool water. It shall be the responsibility of the owner to provide equipment, hose, tank truck or otherwise, to empty the pool water into the storm sewer.
 - c. Equipment shall be provided for the disinfection of all pool water.
5. Electrical Connection: Electrical connections shall conform to the National Electrical Code and the Electrical Code of the state of Wisconsin.
 - a. No extension cord connection may be used for any pool system.
6. Fence Required:
 - a. Swimming pools not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool.
 - b. Shall not be less than four feet (4') in height.
 - c. Fence installation and materials shall conform to the zoning code section 23.720 Fencing Standards of the Delavan zoning code.
 - d. Shall be so constructed so as not to have voids, holes or openings that would allow the passage of four inches (4") sphere.
 - e. Above-ground pools with built-in fencing and/or locking gates to prevent unguarded entry will be allowed without separate additional fencing, per the approval of the Zoning Administrator.
 - f. No fence shall be located, erected, constructed or maintained closer to a pool than three feet.
7. Gates:
 - a. Shall be equipped to accommodate a locking device.
 - b. Pedestrian access gates shall open outward away from the swimming pool and shall be self-closing and have a self-latching device.
 - i. Where the release mechanism of the self-latching device is located less than 54 inches from grade, the release mechanism shall be located on the swimming pool side of the gate at least 3 inches

below the top of the gate, and the gate and barrier shall not have openings greater than 1/2 inch (12.7 mm) within 18 inches of the release mechanism.

b. Shall comply with Section 24.904, procedures applicable to all special uses.

(f) **Private Residential Kennel**

Description: A maximum of any combination of 3 dogs and/or cats (over 6 months of age) are permitted by right for any 1 residential unit. Any residence housing a number of dogs and or cats exceeding this number shall be considered a private residential kennel. Such a kennel (dogs only) shall require licensing by the City of Delavan. In addition to those requirements, a private residential kennel shall meet the following requirements:

1. Permitted by Right: {All Districts for any combination of 3 (or fewer) dogs and/or cats over 6 months of age}.
2. Special Use Regulations {RH-35ac):
 - a. For any number over three animals, a maximum of one additional animal per 5 acres shall be permitted.
 - b. Outdoor containments for animals shall be located a minimum of 25 feet from any residentially zoned property and shall be screened from adjacent properties.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations {RE-5ac, RS-2):
 - a. Shall comply with regulations in 2., above.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(g) **Private Residential Stable**

Description: A private residential stable is a structure facilitating the keeping of horses (or similar animals) on the same site as a residential dwelling.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {RH-35ac):
 - a. A minimum lot area of 175,000 square feet (4 acres) is required for a private residential stable.
 - b. A maximum of one horse per five acres of fully enclosed, by fencing and/or structures, area is permitted.
 - c. Outdoor containments for animals shall be located a minimum of 25 feet from any residentially zoned property.
 - d. The requirements of Subsection 23.206(4)(k) shall also apply to private residential stables.
 - e. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations {RE-5ac):
 - a. Shall comply with regulations in b., above.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(h) **Company Cafeteria**

Description: A company cafeteria is a food service operation which provides food only to company employees and their guests, which meets State food service requirements, and is located on the same property as a principal land use engaged in an operation other than food service.

1. Permitted by Right {ON, OP, BR, BL, BC, ML, MG, MH}

2. Special Use Regulations: Not applicable.
 3. Conditional Use Regulations: Not applicable.
- (i) **Company Provided On-Site Recreation**
Description: A company provided on-site recreational facility is any active or passive recreational facility located on the same site as a principal land use, and which is reserved solely for the use of company employees and their guests. Facilities using activity night lighting shall be a conditional use.
1. Permitted by Right: Not applicable.
 2. Special Use Regulations {ON, OP, BR, BL, BC, ML, MG, MH}:
 - a. All structures and actively used outdoor areas shall be located a minimum of 50 feet from any residentially zoned property.
 - b. Shall comply with Section 24.904, procedures applicable to all special uses.
 3. Conditional Use Regulations: {ON, OP, BR, BL, BC, ML, MG, MH}:
 - a. Outdoor recreation facilities using night lighting and adjoining a residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity of 0.60 (see Section 23.610). Said bufferyard shall be located at the property line adjacent to said residentially zoned property.
 - b. All structures and actively used outdoor areas shall be located a minimum of 50 feet from any residentially zoned property.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
- (j) **Outdoor Display Incidental to Indoor Sales and Service (more than 12 days)**
Description: See Subsection 23.206(4)(d).
1. Permitted by Right: Not applicable.
 2. Special Use Regulations: Not applicable.
 3. Conditional Use Regulations {BR, BL, ML, MG}:
 - a. Shall comply with all conditions of Subsection (4)(d), above.
 - b. Display area shall not exceed 25% of gross floor area of principal building on the site.
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- (k) **In-Vehicle Sales and Services Incidental to On-Site Principal Land Use**
Description: See Subsection 23.206(4)(g), above.
1. Permitted by Right: Not applicable.
 2. Special Use Regulations: Not applicable.
 3. Conditional Use Regulations {ON, OP, BN, BR, BL, BC, ML}:
 - a. Shall comply with all conditions of Subsection (4)(g), above.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- (l) **Indoor Sales Incidental to Storage or Light Industrial Land Use**
Description: These land uses include any retail sales activity conducted exclusively indoors which is incidental to a principal land use such as warehousing, wholesaling or any light industrial land use, on the same site.
1. Permitted by Right: Not applicable.
 2. Special Use Regulations {ML, MG, MH}:
 - a. Adequate parking, per the requirements of Section 23.704, shall be provided for customers. Said parking shall be in addition to that required for customary light industrial activities.

- b. The total area devoted to sales activity shall not exceed 25% of the total area of the buildings on the property.
 - c. Shall provide restroom facilities directly accessible from retail sales area.
 - d. Retail sales area shall be physically separated by a wall from other activity areas.
 - e. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.

(m) Light Industrial Activities Incidental to Indoor Sales or Service Land Use

Description: These land uses include any light industrial activity conducted exclusively indoors which is incidental to a principal land use such as indoor sales or service, on the same site.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations: {BR, BN, BL, BC}:
 - a. The total area devoted to light industrial activity shall not exceed 15% of the total area of the buildings on the property, or 5,000 square feet, whichever is less.
 - b. Production area shall be physically separated by a wall from other activity areas and shall be soundproofed to the level required by Section 23.709 for all adjacent properties.
 - c. Shall comply with Section 24.905, procedures applicable to all conditional uses.

(n) Drainage Structure

Description: These include all improvements including, but not limited to swales, ditches, culverts, drains, tiles, gutters, levees, basins, detention or retention facilities, impoundments, and dams intended to effect the direction, rate and/or volume of stormwater runoff, snow melt, and/or channelized flows across, within and/or away from a site.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations {All Districts}:
 - a. Shall comply with Section 23.206(10) for the placement of drainage structures in permanently protected green space areas.
 - b. Shall comply with Section 23.206(10) and provisions of the City's Subdivision Regulations regarding protection measures for drainageways.
 - c. Any drainage improvement shall not increase the rate or volume of discharge from the subject property onto any adjacent properties, except where regional stormwater management facilities such as storm sewers and retention or detention facilities are in place to serve the subject property.
 - d. Shall comply with Section 24.904, procedures applicable to all special uses.
- 3. Conditional Use Regulations: Not applicable.

(o) Filling

Description: Filling includes any activity in an area over 4,000 square feet or greater than 500 cubic yards of fill, involving the modification of the earth's surface above that in its undisturbed state.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations {All Districts}:
 - a. Shall comply with Section 23.204 regarding filling activities in permanently protected green space areas.
 - b. Shall comply with Subchapter 23-5 regarding protection measures for natural resources.

- c. Shall not create drainage onto other properties.
 - d. Shall not impede on-site drainage.
 - e. Shall comply with provisions of the Subdivision and Platting Ordinance.
 - f. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.

(p) **Lawn Care**

Description: Lawn care includes any activity involving the preparation of the ground, installation and maintenance of vegetative ground cover (including gardens) which complies with the City of Delavan Code of Ordinances. Lawn care is not permitted in certain permanently protected green space areas, see Section 23.509.

- 1. Permitted by Right {All Districts}
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations: Not applicable.

(q) **Individual Septic Disposal System**

Description: This land use includes any State-enabled, County-approved septic disposal system.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations: {RH-35ac}
 - a. Minimum lot size of 0.5 acres.
 - b. Shall comply with Subchapter 23-5 regarding protection measures for natural resources.
 - c. Installation shall be approved by Water and Sewer Commission.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(r) **Exterior Communication Devices** (e.g. satellite dishes, ham radio towers, t.v. antennas)

Description: Reserved.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: {All Districts}.
 - a. Exterior communication devices shall not be located between the principle structure and a public street.
 - b. Devices must be sited an equal or greater number of feet from any property lines as their maximum height.
- 3. Conditional Use Regulations: {All Districts}.
 - a. Devices that do not meet Special Use requirements.
 - b. The Applicant must demonstrate that all reasonable mechanisms have been used to mitigate safety hazards and the visual inputs of the device.

(s) **Home Occupation**

Description: Home occupations are economic activities performed within any single-family detached residence which comply with the following requirements. Examples include personal and professional services, and handicrafts, which comply with all of the following requirements:

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations {All Districts}
 - a. The home occupation shall be conducted only completely within the dwelling unit or accessory building or structure and not on any porch, deck, patio or other unenclosed or partially-enclosed portion of the dwelling unit.

- b. The home occupation shall be conducted by a resident of the dwelling unit, and no more than 1 other person shall be employed, on either a part-time or full-time basis, in the business.
- c. No more than 25% of the total living area of the dwelling (exclusive of garage and porch areas) shall be used for the home occupation.
- d. The dwelling unit used for the home occupation shall not serve as a storage facility for a business conducted elsewhere.
- e. No activity, materials, goods, or equipment incidental to the home occupation shall be externally visible.
- f. Only 1 sign, not to exceed 2 square feet, non-illuminated and wall mounted only, may be used to advertise a home occupation. Said sign shall not be located within a right-of-way, and shall be of an appearance which is harmonious with nearby residential areas.
- g. The use of the dwelling unit for a home occupation shall in no way be incompatible with the character of nearby residential areas.
- h. A minimum of 2 off-street parking spaces reserved for business use shall be provided on-site.
- i. In no instance shall a home occupation create a nuisance for neighboring properties.
- j. Subject property owner's written permission is required as part of the special use application.
- k. Shall comply with Section 24.904, standards and procedures applicable to all special uses.

3. Conditional Use Regulations: Not applicable.

(t) On-Site Composting and Wood Piles

Description: Includes all collection, storage, and processing of vegetation wastes and/or wood piles.

- 1. Permitted by Right: {All Districts}: All facilities less than five cubic yards of compost or five full cords of wood.
- 2. Special Use Regulations {All Districts}
 - a. Shall be limited to no more than 10 cubic yards of total collection, storage and processing area, and/or 10 full cords of total collection and storage area. All such areas shall be located a minimum of 5 feet from all property lines.
 - b. Shall not involve food scraps, other vermin-attracting materials, or rotted wood and shall be maintained in an attractive manner.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
- 3. Conditional Use Regulations: Not applicable.

(u) Family Day Care Home (Four to Eight Children)

Description: Family day care homes are occupied residences in which a qualified person or persons provide child care for 4 to 8 children. The care of less than 4 children is not subject to the regulations of this Title.

- 1. Permitted by Right: {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12}
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations: Not applicable.

State Law Reference: Section 66.304(b)(2), Wisconsin Statutes

(v) **Migrant Labor Camp**

Migrant labor camps include any facility subject to the regulation of Wisconsin Statutes 103.90.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable
3. Conditional Use Regulations {RH-35ac}
 - a. Shall be surrounded by a bufferyard with a minimum opacity of .60 along all property lines adjacent to all properties in residential, office or commercial zoning districts (see Section 23.610).
 - b. Migrant labor camp shall be an accessory use to an active principal use, under the same ownership, which is located within the City of Delavan.
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(9) **Temporary Land Uses**

(a) **Contractor's Project Office** {All Districts}

Description: Includes any structure containing an on-site construction management office for an active construction project.

1. Temporary Use Regulations:
 - a. Structure shall not exceed 2,000 square feet in gross floor area.
 - b. Facility shall be removed within 10 days of issuance of occupancy permit.
 - c. Shall not be used for sales activity. (See subsection (9)(d), below.)
 - d. Projects requiring said land use to be in place for more than 365 days shall require a Conditional Use Permit.
 - e. Shall comply with Section 24.906, standards and procedures applicable to all temporary uses.

(b) **Contractor's On-Site Equipment Storage Facility** {All Districts}

Description: Includes any structure or outdoor storage area designed for the on-site storage of construction equipment and/or materials for an active construction project.

1. Temporary Use Regulations:
 - a. Facility shall be removed within 10 days of issuance of occupancy permit.
 - b. Projects requiring said land use to be in place for more than 365 days shall require a Conditional Use Permit.
 - c. Shall be limited to a maximum area not exceeding 10% of the property's Gross Site Area.
 - d. Shall comply with Section 24.906, standards and procedures applicable to all temporary uses.

(c) **Relocatable Building** {ON, OP, BN, BR, BL, BC, ML, MG, MH}

Description: Includes any manufactured building which serves as a temporary building for less than 6 months. (Facilities serving for more than 6 months shall be considered conditional uses and subject to the general standards and procedures presented in Section 24.905.)

1. Temporary Use Regulations:
 - a. Shall conform to all setback regulations.
 - b. Shall conform to all building code regulations.
 - c. Shall comply with Section 24.906, standards and procedures applicable to all temporary uses.

(d) **On-Site Real Estate Sales Office** {All Districts}

Description: Includes any building which serves as an on-site sales office for a development project.

1. Temporary Use Regulations:

- a. Structure shall not exceed 5,000 square feet in gross floor area.
- b. Facility shall be removed or converted to a permitted land use within 10 days of the completion of sales activity.
- c. Signage shall comply with the requirements for temporary signs in Section 23.807.
- d. Projects requiring said land use to be in place for more than 365 days shall require a Conditional Use Permit.
- e. Shall comply with Section 24.906, applicable to all temporary uses.

(e) **General Temporary Outdoor Sales** {BN, BR, BL, BC, ML (RC-319, 6/12/12)}

Description: Includes the display of any items outside the confines of a building which is not otherwise permitted as a permitted, special, or conditional use, or a special event otherwise regulated by the City of Delavan Municipal Code. Examples of this land use include but are not limited to: seasonal garden shops, tent sales, and bratwurst stands. Garage sales are exempt from the provisions of this Title, but shall comply with the requirements of the City of Delavan Municipal Code.

1. Temporary Use Regulations:

- a. Display shall be limited to a maximum of 120 days in any calendar year.
- b. Display shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
- c. Signage shall comply with the requirements for temporary signs in Section 23.807.
- d. Adequate parking shall be provided.
- e. If subject property is located adjacent to a residential area, sales and display activities shall be limited to daylight hours.
- f. Shall comply with Section 24.906, standards and procedures applicable to all temporary uses.
- g. If the approved site plan does not change, the zoning permit will continue. (RC-29, 2/10/98)

(f) **Seasonal Outdoor Sales of Farm Products** {RH-35ac, BN, BR, BL, BC, ML, MG}

Description: Includes any outdoor display of farm products not otherwise regulated by the City of Delavan Code of Ordinances.

1. Temporary Use Regulations:

- a. Display shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
- b. Signage shall comply with the requirements for temporary signs in Section 23.807.
- c. Adequate parking shall be provided.
- d. If subject property is located adjacent to a residential area, sales and display activities shall be limited to daylight hours.
- e. Shall comply with Section 24.906, standards and procedures applicable to all temporary uses.

(g) **Outdoor Assembly** {All Districts}

Description: Includes any organized outdoor assembly of more than 100 persons.

1. Conditional Temporary Use Regulations:
 - a. Activities shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
 - b. Signage shall comply with the requirements for temporary signs in Section 23.807.
 - c. Adequate parking, drinking water, and toilet facilities shall be provided, and shall be described in the application.
 - d. If subject property is located adjacent to a residential area, activities shall be limited to daylight hours.
 - e. Adequate provisions for crowd control shall be made, and shall be described within the application.
 - f. Shall comply with Section 24.904, applicable to all temporary uses.

(h) **Limited Duration Special Activities and Events** {All Districts} (RC-319, 6/12/12)

Description: Any use of a structure or land for an indoor and/or outdoor event for a limited period for time not otherwise addressed in subsections 23.206(9)(a)-(g), above, where the site is not to be permanently altered by grading or construction. Events include, but are not limited to, art shows, outdoor festivals and concerts, boat shows, hot air balloon launch, or benefit event.

1. Temporary Use Regulations:
 - a. Duration.
 - i. Temporary activities or events shall be limited to a period of no more than 2 consecutive days in the RH-35, RE-5, RS-2, RS-3, RS-5, RM-8, RM-12, ON, OP, MG, MH, I, and IR districts.
 - ii. Temporary activities or events shall be limited to a period of no more than 10 consecutive days in the BN, BR, BL, BC, ML, and PR districts.
2. Activities shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
3. Adequate provisions for crowd control shall be made, and shall be described within the temporary use application.
4. Adequate parking, drinking water, and toilet facilities shall be provided, and shall be described in the temporary use application.
5. Signage shall comply with the requirements for temporary signs in Section 23.807.
6. Shall comply with Section 24.904, procedures applicable to special uses.
7. Shall comply with Section 24.906, procedures applicable to temporary uses.

(10) **Natural Resource Disruption and Required Mitigation Standards**

For all land uses, disruption to natural resource areas shall comply with the requirements of the Subdivision and Platting Ordinance pertaining to drainage, grading and erosion control. All land uses located within Permanently Protected Green Space Areas shall comply with the following regulations:

(a) **Cultivation**

1. Permitted as a Conditional Use: {Other permanently protected green space areas}:
 - a. Permitted only if designated on the submitted site plan, and/or the recorded Plat or Certified Survey as an "Area which may be used for cultivation".

- (b) **Passive Outdoor Public Recreational Area**
 - 1. Permitted as a Special Use: {All permanently protected green space areas}:
 - a. limited to a 20 foot wide area in permanently protected natural resource areas. Permitted in other permanently protected green space areas without restriction.
 - b. Non-native vegetation shall not be permitted to spread into permanently protected natural resource areas beyond said 20 foot wide area.
 - 2. Permitted as a Conditional Use: Not applicable.
- (c) **Active Outdoor Public Recreational Area**
 - 1. Permitted as a Special Use {Other permanently protected green space areas}:
 - a. Non-native vegetation shall not be permitted to spread into permanently protected natural resource areas.
 - 2. Permitted as a Conditional Use: {Floodway Fringe}
- (d) **Outdoor Institutional**
 - 1. Permitted as a Special Use {Other permanently protected green space areas}:
 - a. Non-native vegetation shall not be permitted to spread into permanently protected natural resource areas.
 - 2. Permitted as a Conditional Use: Not applicable.
- (e) **Lawn Care**
 - 1. Permitted as a Special Use {Other permanently protected green space areas}:
 - a. Non-native ground cover shall not be permitted to spread into permanently protected natural resource areas. Clearance of understory growth shall be permitted.
 - 2. Permitted as a Conditional Use {All permanently protected natural resource areas except wetlands}:
 - a. Only disturbance associated with the care of native vegetation is permitted, with the exception of a 20 foot wide access path which may be cleared for passive recreation purposes.
 - b. Each property abutting a natural resource area shall be limited to one such access path.
 - c. Non-native vegetation (such as domestic lawn grasses) shall not be introduced into natural resource areas beyond said 20 foot wide access path.
- (f) **Golf Course**
 - 1. Permitted as a Conditional Use {All permanently protected natural resource areas}:
 - a. Only disturbance associated with the care of native vegetation is permitted. Natural resource areas which are located within or adjacent to golf play areas shall be incorporated into the course design as out-of-bounds play hazards, and shall be maintained in their natural state.
- (g) **Any Permitted Temporary Use**
 - 1. Permitted as a Special Use: {Other permanently protected green space areas}
 - a. Activity shall in no manner encroach upon permanently protected natural resources areas. Party securing the temporary use permit shall be responsible for restoring all such natural resource areas to an undamaged state, or shall be considered in violation of the provisions of this Ordinance. (See Section 24.906.)
 - 2. Permitted as a Conditional Use: Not applicable.

(h) **Drainage Structure**

1. Permitted as a Special Use: Not applicable.
2. Permitted as a Conditional Use {All permanently protected green space areas}:
 - a. Structure shall be deemed necessary by the Department of Public Works.
 - b. Natural vegetation shall be restored in disturbed areas.

(i) **Filling**

1. Permitted as a Special Use: Not applicable
2. Permitted as a Conditional Use {All permanently protected green space areas}:
 - a. Filling in the floodway shall be done only as required by a necessary road, bridge, utility, or other infrastructure facility which has been deemed necessary by the Department of Public Works.
 - b. Natural vegetation shall be restored in disturbed areas.
 - c. In no instance shall filling raise the base flood elevation.

(j) **Road and/or Bridge**

1. Permitted as a Special Use: Not applicable.
2. Permitted as a Conditional Use {All permanently protected green space areas}:
 - a. May locate in or across a natural resource areas only in conjunction with a boat landing, or when deemed essential by the Department of Public Works.
 - b. May locate in other permanently protected green space areas if designed to provide an essential service to an activity area located within the green space area which cannot be efficiently reached from another point.
 - c. In general, road networks shall be designed to circumvent permanently protected green space areas, thereby eliminating the need for intrusions and crossings.

(k) **Utility Lines and Related Facilities**

1. Permitted as a Special Use: Not applicable.
2. Permitted as a Conditional Use {All permanently protected green space areas}:
 - a. May locate in or across a natural resource areas only when deemed essential by the Department of Public Works.
 - b. May locate in other permanently protected green space areas if designed to provide an essential service to an activity area located within the green space area which cannot be efficiently reached from another point.
 - c. In general, utility lines shall be designed to circumvent permanently protected green space areas, thereby eliminating the need for intrusions and crossings.

Section 23.207 Nonconforming Use Regulations

- (1) **Definition:** A nonconforming use is an active and actual use of land or structures, or both; legally established prior to the effective date of this Title or subsequent applicable amendment thereto which has continued the same use to the present, and which would not be permitted under the current terms of this Title. The definition under the provisions of this Section do not apply to Section 23.503 of Subchapter 23-5 of the City of Delavan Zoning Ordinance for Natural Resources Protection. (RC-287, 3/9/10)
- (2) **Continuance of a Nonconforming Use:** Any nonconforming use lawfully existing upon the effective date of this Title may be continued at the size and in a manner of operation existing upon such date, except as specified in this Section. Any legal use under the previous Zoning Ordinance which is made nonconforming by this Ordinance shall be considered a legal use with the granting of a conditional use permit by the Common

Council. Any legal use under the previous zoning map which is made nonconforming by a change to the official zoning map may apply for a zoning map amendment (per Section 24.903) to an appropriate zoning district to be granted legal conforming use status. (C-735, 1/21/97)

(3) **Modification of a Nonconforming Use:**

- (a) Except as permitted in (b), below, a nonconforming use shall not be expanded, or changed to another nonconforming use; unless such modification would make the nonconforming use have a more desirable effect in terms of implementing the purpose of this Title (as determined by the Zoning Administrator). If such a modification occurs, said use shall not be modified back to the original nonconforming use, or to any other nonconforming use which does not better accomplish the purpose of this Title.
- (b) A nonconforming nonresidential use which is not served by public sanitary sewer and/or public water may be permitted to expand without being served by public sanitary sewer and/or public water if said facilities are not available within 1,000 feet of the subject property, and upon the granting of a conditional use permit per the requirements of Section 24.905.

(4) **Discontinuance of a Nonconforming Use:** When any nonconforming use of any structure or land is discontinued for a period of 12 months, or is changed into a conforming use, any future use of said structure or land shall be in complete conformity with the provisions of this Title.

(5) **Maintenance of a Nonconforming Use:** The normal maintenance of a structure or land containing or related to a nonconforming use is permitted, including necessary repairs and incidental alterations which do not exacerbate the adverse impacts of the nonconforming use in relation to the purpose of this Title. In no instance shall said repairs exceed over the life of the structure, 50% of the present equalized assessed value of said structure or property prior to said repairs.

(6) **Nonconforming Lots, Structures, and Buildings:** See Sections 23.307, 23.408 and 23.409.

(7) **Wetland Nonconforming Uses:** Notwithstanding Section 62.23(7)(h) of the Wisconsin Statutes, the repair, reconstruction, renovating, remodeling or expansion of a legal nonconforming structure in existence at the time of adoption or subsequent amendment of this ordinance adopted pursuant to Section 62.231 of the Wisconsin Statutes, or of an environmental control facility in existence on May 7 1982, related to that structure, is permitted pursuant to Section 62.231(5) of the Wisconsin Statutes. Section 62.23(7)(h), however, applies to any environmental control facility that was not in existence on May 7, 1982, but was in existence on the effective date of this ordinance or amendment.

(8) **Conversion of Legal, Non-Conforming Uses to a Conditional Use.** Upon petition of the property owner, the City Council may approve, as a conditional use, a change of a legal, non-conforming use to a conditional use provided the City Council determines that the proposed conditional use would result in no greater degree of non-conformity than existed prior to said approval, and subject to such other conditions as the City Council may impose in order to reduce the impact of said use on adjoining property owners or on the City of Delavan or such other conditions as the City Council may deem necessary in order to fulfill the intent and purpose of the City of Delavan zoning ordinance. (RC-193, 11/9/04)

Section 23.208 Group Developments

- (1) **Definition:** A group development is any development containing 2 or more structures containing principal land uses (as listed in Table 23.203) on the same lot, and/or any single structure on a single lot which contains 5 or more dwelling units or 2 or more non-residential uses. Common examples of group developments include 6-unit apartment buildings, apartment complexes, condominium complexes, shopping centers, and office centers. (One- building office structures, one-building commercial strip centers, 4-unit apartment buildings, and other land uses in which each lot contains only 1 structure and where each residential building contains 4 or fewer dwelling units, are not group developments, even though such developments may contain parcels under common ownership.)
- (2) **Regulation of Group Developments:** Group developments are permitted as conditional uses in all zoning districts. Any land use which is permitted within the applicable zoning district(s) is permitted to locate within a group development. The land use regulations of this Section, as well as Section 23.206 and all other applicable provisions of this Title shall apply to the group development. The requirements of Section 24.905 shall apply to the review of proposals for group developments.
- (3) **Specific Development Standards for Group Developments**
 - (a) All required off-street parking spaces and access drives shall be located entirely within the boundaries of the group development.
 - (b) Each individual land use shall have a rear or side entrance that is accessible to a loading or service drive. Said service drive shall have a minimum width of 26 feet. Said service drive shall not be part of the vehicle circulation network used by customers.
 - (c) The development shall contain a sufficient number of waste bins to accommodate all trash and waste generated by the land uses in a convenient manner.
 - (d) All development located within a group development shall be located so as to comply with the intent of this Title regarding setbacks of structures and buildings from lot lines. As such, individual principal and accessory structures and buildings located within group developments shall be situated within building envelopes which serve to demonstrate complete compliance with said intent. Said building envelopes shall be depicted on the site plan required for review of group developments. The use of this approach to designing group developments will also ensure the facilitation of subdividing group developments in the future, (if such action is so desired).
- (4) **Discrimination Against Condominium Forms of Ownership**

It is not the intent of this Section, nor any other provision of this Title, to discriminate against condominium forms of ownership in any manner which conflicts with Wisconsin Statutes 703.27. As such, the provisions of this Section are designed to ensure that condominium forms of ownership are subject to the same standards and procedures of review and development as other physically identical forms of development.