

## SUBCHAPTER 23-7: PERFORMANCE STANDARDS

### **Section 23.701 Purpose**

The purpose of this Subchapter is to indicate the requirements for access, visibility, off-street parking, off-street loading, exterior storage, exterior lighting, vibration, noise, air pollution, odors, electromagnetic radiation, glare and heat, fire and explosion, toxic and noxious materials, waste materials, drainage, exterior construction materials, and hazardous materials for all development occurring within the jurisdiction of this Title (see Section 21.009).

### **Section 23.702 Access Standards**

- (1) **Purpose:** The purpose of this Section is to alleviate or prevent congestion of public rights-of-way so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of access to public rights-of-way in accordance with the utilization of various sites.
- (2) **Permit Required:**  
Each access point onto a public street or right-of-way shall have a permit issued by the Director of Public Works per Wisconsin Statutes 86.07(2).
- (3) **Number of Access Points:**
  - (a) Each lot shall have not more than two access points on any street frontage adjacent to any lot. Said access shall require approval by the Zoning Administrator and the Director of Public Works.
  - (b) In no instance shall any lot be permitted more than one access point on any one street if its frontage on said street is less than 100 linear feet (as measured along the right-of-way line).
  - (c) On arterial streets and in certain areas experiencing, or expected to experience, congestion and/or safety problems, access to a lot may be required to be located via an access point located on an adjacent property or another street frontage.
  - (d) For residential uses, two access points serving the same street frontage may be approved as a conditional use.
- (4) **Residential Uses:** Residential uses shall not have access points onto a nonresidential collector or arterial street unless such street has the only available frontage.
- (5) **Nonresidential Uses:** Nonresidential uses shall not have access points onto a residential street unless such street has the only available frontage.
- (6) **Access Near Street Intersections:** At its intersection with the street right-of-way line on an arterial or nonresidential collector street, no access point shall be located closer than 100 feet from the intersection of any two street rights-of-way unless such street is the only available frontage on the subject property. In all cases, access points shall be located as far from an intersection as the lot size permits.
- (7) **Distance Between Access Drives:** The minimum distance between access drives serving the same property shall be 25 feet (edge to edge), as measured at the property line. A distance in excess of said 25 feet may be required if, in the opinion of the Zoning Administrator and the Director of Public Works, present or projected traffic factors warrant a greater distance.

- (8) **Angle of Intersection with Public Right-of-Way:** All access drives shall intersect with any public right-of-way at an angle of not less than 75 degrees, and shall intersect at an angle of 90 degrees wherever possible.
- (9) **Distance from Property Line:** The distance from an access drive to the property line of an adjacent property shall not be less than five feet, as measured along the right-of-way line.
- (10) **Width of Driveways:** All driveways shall adhere to the requirements listed in Chapter 3, Title 6 of the Municipal Code of Ordinances. (RC-319, 6/12/12)
- (11) **Traffic Control:** The traffic generated by any use shall be channelized and controlled in a manner which avoids congestion on public streets and other safety hazards. Traffic into and out of all off-street parking, loading and traffic circulation areas serving six or more parking spaces shall be forward moving, with no backing into streets or pedestrian ways. Traffic control devices shall be required as determined by the Director of Public Works.
- (12) **Depiction on Required Site Plan:** Any and all proposed access drives on the subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property. (Refer to Section 24.908.)
- (13) **Paving of Access:** All new access approach areas located within a street right-of-way shall be paved to the satisfaction of the Director of Public Works with a hard, all-weather surface, and shall be maintained so as to prevent the transport of gravel, dirt, or other eroded material from the subject property into the right-of-way. These requirements may be applied to existing access approach areas to correct an erosion control or safety problem per the directive of the Director of Public Works.

### **Section 23.703 Visibility Standards**

- (1) **Purpose:** The purpose of this Section is to alleviate or prevent congestion of public rights-of-way so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of vehicular visibility.
- (2) **Requirement:** In order to provide a clear view of intersecting streets to motorists there shall be a triangular area of clear vision formed by the two intersecting streets and a chord connecting said centerlines, as determined by the Director of Public Works. Generally, the following standards shall apply:

<b>TABLE 23.703: VISION CLEARANCE TRIANGLE STANDARDS</b>	
<b>Right-of-Way Width</b>	<b>Distance from R-O-W Intersection</b>
less than 50 feet	50 feet
50 feet	50 feet
51-60 feet	40 feet
61-66 feet	34 feet
67 feet-82.5 feet	15 feet
greater than 82.5 feet	15 feet

Within said triangular area, no signs, parking spaces, structures, or earthwork in excess of 30 inches, and no vegetation, fencing, nor other such obstructions between 30 inches and 8 feet in height which exceeds an opacity of 0.2 (see Section 23.610(4)(b)) shall be permitted which exceeds 30 inches in height above either of the centerline elevations of said two streets.

- (3) **Depiction on Required Site Plan:** Any and all visibility triangles located on the subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property. (Refer to Section 24.908.)

**Section 23.704 Off-Street Parking and Traffic Circulation Standards**

- (1) **Purpose:** The purpose of this Section is to alleviate or prevent congestion of public rights-of-way so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of off-street parking and circulation in accordance with the utilization of various sites.
- (2) **Depiction on Required Site Plan:** Any and all parking and traffic circulation areas proposed to be located on the subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property. (Refer to Section 24.908.) Each and every parking space designed to serve as required parking shall not be located farther than 400 feet of shortest walking distance from the access to all of the various areas it is designated to serve. A garage stall, meeting the access requirements of Subsection (6)(d), below, shall be considered a parking space. Parking spaces for any and all vehicles exceeding 18 feet in length, shall be clearly indicated on said site plan.
- (3) **Use of Off-Street Parking Areas:** The use of all required off-street parking areas shall be limited to the parking of operable vehicles not for lease, rent, or sale. Within residential districts, required parking spaces shall only be used by operable motor vehicles.
- (4) **Traffic Circulation and Traffic Control:** Site circulation shall be designed to provide for the safe and efficient movement of all traffic entering, exiting, and on the site. Circulation shall be provided to meet the individual needs of the site with specific mixing of access and through movements, and where required, shall be depicted on the required site plan. Circulation patterns shall conform with the general rules of the road and all traffic control measures shall meet the requirements of the Manual of Uniform Traffic Control Devices.

- (5) **Maintenance of Off-Street Parking and Traffic Circulation Areas:** All off-street parking and traffic circulation areas shall be maintained in a dust-free condition at all times. In no instance or manner shall any off-street parking or traffic circulation area be used as a storage area, except as provided for by Section 23.706(3).
- (6) **Off-Street Parking and Traffic Circulation Design Standards**
- (a) **Surfacing and Marking:** All off-street parking and traffic circulation areas (including all residential driveways -- except those within the single-family districts which exist before the effective date of this Ordinance unless otherwise directed by the Zoning Administrator per Section 23.702(13)) shall be paved with a hard, all-weather surface, to the satisfaction of the Zoning Administrator. Said surfaces intended for 5 or more parking stalls shall be marked in a manner which clearly indicates required parking spaces.
- (b) **Curbing:** All off-street parking areas designed to have head-in parking within 6½ feet of any lot line shall provide a tire bumper or curb of adequate height and which is properly located to ensure that no part of any vehicle will project beyond the required setbacks of this Title (see Sections 23.403 and 23.404.) Curbing within off-street parking areas shall also be required to fully separate all required landscaped areas from the parking lot, (see Section 23.607(4)).
- (c) **Lighting:** All off-street parking and traffic circulation areas serving 6 or more cars shall be lit so as to ensure the safe and efficient use of said areas during the hours of use. An illumination level of between 0.4 and 1.0 footcandles is recommended for said areas, and said illumination level shall not exceed the standards of Section 23.707.
- (d) **Access:** Except for parking spaces serving single-family and two-family dwelling units, each required off-street parking space shall open directly upon an aisle or driveway that is wide enough and designed to provide a safe and efficient means of vehicular access to the parking space without directly backing or maneuvering a vehicle into a public right-of-way for all commercial, industrial, and multi-family parking lots. All off-street parking and traffic circulation facilities shall be designed with an appropriate means of vehicular access to a street or alley, in a manner which least interferes with traffic movements. No driveway across public property, or requiring a curb cut, shall exceed a width of 40 feet for commercial and industrial land uses, or 25 feet for residential land uses. (See also Table 23.704(6)(j).) Off-street parking spaces for residential uses may be stacked or in front of one-another for the same building unit. Parking spaces located behind an enclosed garage and located directly off a through aisle shall be a minimum of 30 feet deep.
- (e) **Fire Lanes:** A fire lane shall be required to provide access to any portion of any structure equal to or less than 40 feet tall which is more than 150 feet from the nearest street right-of-way, and to any portion of any structure greater than 40 feet tall which is more than 50 feet from the nearest street right-of-way. The Zoning Administrator may also require the provision of a fire lane or lanes to any part of any structure upon a determination that the distance of the structure from the nearest hydrant, the configuration of development on the site, or other special characteristics of the site otherwise inhibit effective fire extinguishment. All fire lanes shall: provide clear, unobstructed access for vehicles and apparatus at all times through a combination of pavement marking and signage; shall be a minimum of 18 feet wide; and shall be surfaced as an all-weather roadway.

- (f) **Signage:** All signage located within, or related to, required off-street parking or traffic circulation shall comply with the requirements of Subchapter 23-8.
- (g) **Handicapped Parking Spaces:** Parking for the handicapped shall be provided at a size, number, location, and with signage as specified by State and Federal regulations.
- (h) **Parking Space Design Standards:** Other than parking required to serve the handicapped, every and all provided off-street parking space shall comply with the minimum requirements of Table 23.704(6)(j). The minimum required length of parking spaces shall be 17.0 feet, plus an additional 1.5 foot vehicle overhang area at the end of the stall. All parking spaces shall have a minimum vertical clearance of at least seven feet.
- (i) **Snow Storage:** Required off-street parking and traffic circulation areas shall not be used for snow storage.
- (j) **Parking Lot Design Standards:** Horizontal widths for parking rows, aisles, and modules shall be provided at widths no less than listed in Table 23.704(6)(j), and shown in Diagram 23.704(6)(j) on the following page.

(7) **Calculation of Minimum Required Parking Spaces**

(a) **General Guidelines for Calculating Required Parking Spaces**

The requirements of Subsection (c), below, shall be used to determine the minimum required number of off-site parking spaces which must be provided on the subject property. Requirements are generally tied to the capacity of the use; the gross floor area of the use; or the number of employees which work at the subject property during the largest work shift. The term "capacity" as used herein means the maximum number of persons that may be accommodated by the use as determined by its design or by State Building Code regulations, whichever number is greater. References herein to "employee(s) on the largest work shift" means the maximum number of employees working at the facility during a single given day, regardless of the time period during which this occurs, and regardless of whether any such person is a full-time employee. The largest work shift may occur on any particular day of the week or during a lunch or dinner period in the case of a restaurant. In all cases, one reserved parking space shall be provided for each vehicle used by the operation during business hours. Said spaces shall be in addition to those required by Subsection (c), below. Where said parking needs of any land use exceed the minimum requirements of this Title, additional parking spaces sufficient to meet the average maximum weekly peak-hour parking space demand shall be provided by said land use.

(b) **Joint Parking Facilities**

1. Parking facilities which have been approved by the Director of Public Works to provide required parking for one or more uses, shall provide a total number of parking spaces which shall not be less than the sum total of the separate parking needs for each use during any peak hour parking period when said joint parking facility is utilized at the same time by said uses.
2. Each parking space designed to serve as joint parking shall not be located farther than 400 feet from the access to all of the various areas it is designated to serve.

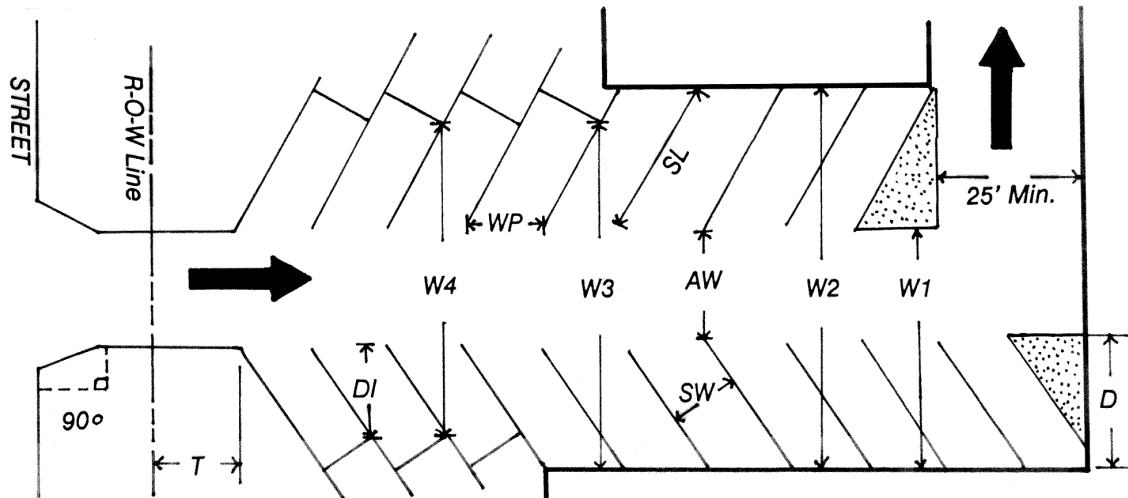
**Table 23.704(6)(j): PARKING LAYOUT DIMENSIONS**

↓ Minimum Permitted Dimensions ↓	↓ Parking Angle in Degrees (α) ↓				
	0° (parallel)	45°	60°	75°	90°
Stall Width at Parking Angle (SW)	9.0'	9.0'	9.0'	9.0'	9.0'
Stall Width Parallel to Aisle (WP)	17.90'	12.7'	10.4'	9.3'	9.0'
Stall Depth to Wall (D)	9.0' <sup>1</sup>	17.5' <sup>1</sup>	19.0'	19.5' <sup>1</sup>	18.5' <sup>1</sup>
Stall Depth to Interlock (DI)	--	15.3'	17.5'	18.8'	--
Stall Length (including 1.5' curb overhang) (SL)	18.5'	18.5'	18.5'	18.5'	18.5'
Aisle Width (AW)	12.0' <sup>2</sup>	12.0' <sup>2</sup>	16.0' <sup>2</sup>	17.20' <sup>2</sup>	26.0' <sup>2</sup>
Throat Length (right-of-way to parking area) (T)	Refer to Requirements in Table 23.704(7)(f).				
Parking Module Width (PMW):					
Wall to Wall (Single-Loaded) (W1)	21.0'	29.5'	35.0'	42.5'	44.5'
Wall to Wall (Double Loaded) (W2)	30.0'	47.0'	54.0'	62.0'	63.0'
Wall to Interlock (Double Loaded) (W3)	--	44.8'	52.5'	61.3'	--
Interlock to Interlock (Double Loaded) (W4)	--	42.6'	51.0'	60.6'	--

<sup>1</sup> Parking spaces located behind an enclosed garage & located directly off a through aisle shall be at least 30 feet deep.

<sup>2</sup> This dimension represents (AW) for one-way traffic. For two-way traffic, add 8.0 feet to a maximum (AW) of 26.0 feet.

**Diagram for Table 23.704(6)(j): TYPICAL PARKING LAYOUT DIMENSIONS**



3. The applicant(s) for approval of a joint parking facility shall demonstrate to the Director of Public Works's satisfaction that there is no substantial conflict in the demand for parking during the principal operating hours of the two of more uses for which the joint parking facility is proposed to serve.
4. A legally binding instrument, approved by the City Administrator, shall be executed by any and all parties to be served by said joint parking facility. This instrument shall be recorded with the Register of Deeds Office, and filed with the City Clerk. A fee shall be required to file this instrument (see Section 24.935(l)).

(c) **Minimum Off-Street Parking Requirements for Land Uses**

The off-street parking requirements for each land use are listed within Section 23.206.

(d) **Provision of Fee-in-Lieu of Parking Spaces Development**

- (a) Within the Business Commercial (BC) District, the parking requirements of this Ordinance are hereby waived.

(e) **Locational Prohibitions for Off-Street Parking Areas**

- (a) Off-street parking shall not be located between the principal structure on a residential lot and a street right-of-way, except within residential driveways and parking lots designated on the approved site plan (see Section 24.908).
- (b) No private parking shall occur on street terraces, driveways, or any other areas located within a public right-of-way not explicitly designated by the Director of Public Works.

(f) **Minimum Permitted Throat Length**

The Table 23.704(7)(f) on the following page shall be used to determine the minimum permitted throat length of access drives serving parking lots, as measured from the right-of-way line along the centerline of the access drive:

TABLE 23.704(7)(f): MINIMUM PERMITTED THROAT LENGTH				
LAND USE	TYPE	SCALE OF DEVELOPMENT	TYPE OF ACCESS STREET	
			COLLECTOR	ARTERIAL
RESIDENTIAL	Any Residential	0-100 dwelling units	25 feet	
		101-200 dwelling units	50 feet	75 feet
		201+ dwelling units	75 feet	125 feet
COMMERCIAL	Office	0-50,000 gross sq. ft.	25 feet	50 feet
		50,000-100,000 gross sq. ft.	25 feet	75 feet
		100,001-200,000 gross sq. ft.	50 feet	100 feet
		200,001+ gross sq. ft.	100 feet	150 feet
	In-Vehicle Sales	0-2,000 gross sq. ft.	25 feet	75 feet
		2,001+ gross sq. ft.	50 feet	100 feet
	Indoor Entertainment	0- 15,000 gross sq. ft.	25 feet	50 feet
		15,001+ gross sq. ft.	25 feet	75 feet
	Commercial Lodging	0-150 rooms	25 feet	75 feet
		151+ rooms	25 feet	100 feet
	Other Commercial Uses	0- 25,000 gross sq. ft.	25 feet	50 feet
		25,001-100,000 gross sq. ft.	25 feet	75 feet
		100,001-500,000 gross sq. ft.	50 feet	100 feet
		500,001+ gross sq. ft.	75 feet	200 feet
	INDUSTRIAL	All Industrial Uses	0-100,000 gross sq. ft.	25 feet
100,001-500,000 gross sq. ft.			50 feet	100 feet
501,001+ gross sq. ft.			50 feet	200 feet
ALL OTHER USES:	6+ parking spaces		25 feet	50 feet

**Section 23.705 Off-Street Loading Standards**

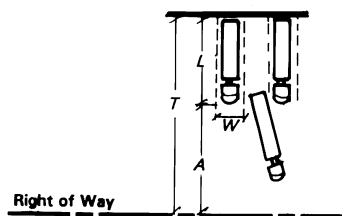
- (1) **Purpose:** The purpose of this Section is to prevent congestion of public rights-of-way and private lots so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of loading facilities on various sites.
- (2) **Applicability:** Any use which has a gross floor area of 6,000 square feet or more, and which requires deliveries or makes shipments, shall provide off-street loading facilities in accordance with the regulations of this Section.
- (3) **Location:** All loading berths shall be located 25 feet or more from the intersection of two street right-of-way lines. Loading berths shall not be located within any required front yard or street yard setback area. Access to the loading berth shall be located in conformance with Section 23.702. All loading areas shall be located on the private lot and shall not be located within, or so as to interfere with, any public right-of-way.



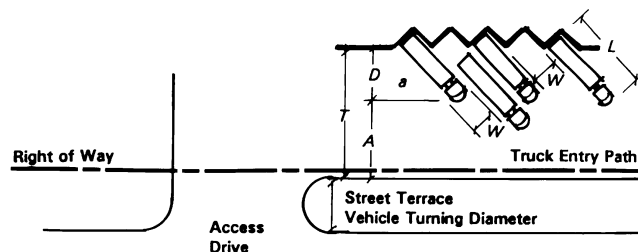
- (4) **Size of Loading Area:** The first required loading berth shall be designed in accordance with Table 23.705(4). All remaining required loading berths shall be a minimum of 25 feet in length. All required loading berths shall have a minimum vertical clearance of 14 feet. The following standards shall be the minimum used to design loading areas:

Table 23.705(4): Loading Standards						
Design Vehicle	Length in Feet (L)	Dock Angle ( $\alpha$ )	Clearance in Feet (D)	Berth Width in Feet (W)	Apron Space in Feet (A)	Total Offset in Feet (F)
WB-40	50	90°	50	10	63	113
				12	56	106
				14	52	102
		60°	44	10	46	90
				12	40	84
				14	35	79
		45°	36	10	37	73
				12	32	68
				14	29	65
WB-50	55	90°	55	10	77	132
				12	72	127
				14	67	122
		60°	48	10	55	103
				12	51	99
				14	46	94
		45°	39	10	45	84
				12	40	79
				14	37	76

**90 DEGREE DOCKS**



**SAWTOOTH DOCKS**



- (5) **Access to Loading Area:** Each loading berth shall be located so as to facilitate access to a public street or alley, and shall not interfere with other vehicular or pedestrian traffic per Section 23.704, and shall not interfere with the function of parking areas. In no instance shall loading areas rely on backing movements into public rights-of-way.
- (6) **Surfacing and Marking:** All required loading areas shall be paved and maintained in a dust-free condition at all times. Said surface shall be marked in a manner which clearly indicates required loading areas.
- (7) **Use of Required Loading Areas:** The use of all required loading areas shall be limited to the loading and unloading of vehicles. Said area shall not be used to provide minimum required parking spaces.
- (8) **Lighting:** All loading areas shall be lit so as to not exceed the standards of Section 23.707.
- (9) **Signage:** All signage located within, or related to, loading areas shall comply with the requirements of Subchapter 23-8.
- (10) **Depiction on Required Site Plan:** Any and all required loading areas proposed to be located on the subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property. (Refer to Section 24.908.)
- (11) **Calculation of Required Loading Spaces**
  - (a) **Indoor Institutional Land Uses:** One loading berth shall be required for each building having a gross floor area of 6,000 square feet to 29,999 square feet. For such uses located in buildings having a gross floor area of 30,000 square feet or greater, two loading berths shall be required.
  - (b) **Commercial (except Offices), Storage/Disposal, Transportation, and Industrial Land Uses:** One loading berth shall be required for each building having a gross floor area of 6,000 square feet to 29,999 square feet. For such uses located in buildings having a gross floor area of 30,000 square feet or greater, an additional loading berth shall be required for any portion of each 50,000 square feet of gross floor area in addition to the original 29,999 square feet.
  - (b) **Office Land Uses:** One loading berth shall be required for each building having a gross floor area of 6,000 square feet to 99,999 square feet. For such uses located in buildings having a gross floor area of 100,000 square feet or greater, an additional loading berth shall be required for any portion of each 100,000 square feet of gross floor area in addition to the original 99,999 square feet.

**Section 23.706 Exterior Storage Standards for Residential, Office and Commercial Districts**

- (1) **Purpose:** The purpose of this Section is to control the use of residential, office and commercial property for exterior storage so as to promote the safety and general welfare of the public. For exterior storage in agricultural and industrial districts, refer to Section 23.206.

(2) **Requirements for Exterior Storage in Residential Zoning Districts:**

- (a) In all residential zoning districts (See Section 22.102 for a listing of these districts), all materials and equipment shall be stored within a completely enclosed building except for the following which shall not be located within any front yard or street yard (required or excess yard, except for vehicles in designated parking spaces) and shall be stored a minimum of five (5) feet from any and all property lines: firewood, construction materials, landscaping materials storage and related equipment connected with on-site construction, and off-street parking.
- (b) In all residential zoning districts, recreational equipment including, but not limited to, boats, snowmobiles, all terrain vehicles, travel trailers, pop-up campers, and motor homes, shall be permitted if said equipment is stored or parked a minimum of five (5) feet from any and all property lines and shall not be located within any front yard or any required street side yard (except for designated parking spaces) unless screened from the street with a bufferyard with a minimum of 0.30 opacity. (see Section 23.610(4)(b)).
- (c) Said equipment storage shall not be located in a minimum required parking space during said equipment's off-season. Motor homes which are used on a year-round basis shall be permitted in said areas on a year-round basis. (Winterization of such vehicles shall be a conclusive indication of non-use.)
- (d) Temporary utility hook-ups shall be permitted for a period not to exceed seventy-two (72) hours for loading and unloading purposes; and an aggregate of fourteen (14) days in any thirty (30) day period for sleeping quarters if the recreational vehicle is owned by the occupant or a guest of the occupant of the residence, subject to the conditions above.
- (e) At no time shall a recreational vehicle be used for permanent living, sleeping, materials storage or other purpose. No recreational vehicle shall be permanently connected to water, gas, electric, or sanitary sewer service.

(3) **Requirements for Exterior Storage in Office and Commercial Districts**

In all office and commercial zoning districts (See Section 22.102 for a listing of these districts), all materials and equipment shall be stored within a completely enclosed building except for the following which shall not be located within any front yard or required street yard (except for vehicles in designated parking spaces) and shall be stored a minimum of five (5) feet from any and all property lines: screened refuse containers; construction materials, landscape materials and related equipment connected within on-site construction; and off-street parking.

(4) **Inoperative Motor Vehicles and Junk:** Refer to the City Code of Ordinances.

**Section 23.707 Exterior Lighting Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the spill-over of light and glare on operators of motor vehicles, pedestrians, and land uses in the vicinity of a light source in order to promote traffic safety and to prevent the creation of nuisances.
- (2) **Applicability:** The requirements of this Section apply to all private exterior lighting within the jurisdiction of this title, except for lighting within public rights-of-way and/or lighting located on publicly-owned property. (C-735, 1/21/97)

- (3) **Depiction on Required Site Plan:** Any and all exterior lighting shall be depicted as to its location, orientation and configuration on the site plan required for the development of the subject property. (Refer to Section 24.908.)
- (4) **Requirements:**
  - (a) **Orientation of Fixture:** In no instance shall an exterior lighting fixture be oriented so that the lighting element (or a transparent shield) is visible from a property located within a residential zoning district. The use of shielded luminaries and careful fixture placement is encouraged so as to facilitate compliance with this requirement.
  - (b) **Intensity of Illumination:** In no instance shall the amount of illumination attributable to exterior lighting, as measured at the property line, exceed 0.50 footcandles above ambient lighting conditions on a cloudless night.
  - (c) **Location:** Light fixtures shall not be located within required bufferyards.
  - (d) **Flashing, Flickering and other Distracting Lighting:** Flashing, flickering and/or other lighting which may distract motorists are prohibited. (Refer to Section 23.804(1)(c).)
  - (e) **Minimum Lighting Standards:** All areas designated on required site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 footcandles.
  - (f) **Nonconforming Lighting:** All lighting fixtures existing prior to the effective date of this Title shall be considered as legal conforming uses, (see Section 23.207).
  - (g) **Special Events Lighting:** Any temporary use using exterior lighting which is not in complete compliance with the requirements of this Section shall secure a temporary use permit. (Refer to Section 24.906.)

**Section 23.708 Vibration Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the creation of vibration which adversely effects adjoining properties in order to prevent the creation of nuisances and to promote the general welfare of the public.
- (2) **Applicability:** The requirements of this Section apply to all uses and activities which create detectable vibrations, except that these standards shall not apply to vibrations created during the construction of the principal use on the subject property.
- (3) **Depiction on Required Site Plan:** Any activity or equipment which create detectable vibrations outside the confines of a building shall be depicted as to its location on the site plan required for the development of the subject property. (See Section 24.908.)
- (4) **Requirements:** No activity or operation shall cause or create earthbone vibrations in excess of the displacement values given below.
- (5) **Method of Measurement:** Measurements shall be made at or beyond the adjacent lot line or the nearest residence district boundary line, as described below. Vibration displacements shall be measured with an instrument capable of simultaneously measuring in three mutually perpendicular directions.

The Maximum permitted displacements shall be determines in each zoning district by the following formula:

$D = K/f$  where D = displacement in inches

K = a constant to be determined by reference to the tables below

f = the frequency of vibration transmitted through the ground, cycles per second

- (6) **Standards in the Manufacturing General District:** In the Manufacturing General District, the maximum earth displacement permitted at the points described below shall be determined by use of the formula above and the appropriate K constant shown in the table below.

LOCATION	K
<i>On or beyond the any adjacent lot line</i>	
Continuous	0.015
Impulsive	0.030
Less than 8 pulses per 24-hour period	0.075
<i>On or beyond any residence district boundary line</i>	
Continuous	0.003
Impulsive	0.006
Less than 8 pulses per 24-hour period	0.015

- (7) **Standards in the Manufacturing Heavy District:** In the Manufacturing Heavy District, the maximum earth displacement permitted at the points described below shall be determined by use of the formula above and the appropriate K constant shown in the table below.

LOCATION	K
<i>On or beyond the any adjacent lot line</i>	
Continuous	0.030
Impulsive	0.060
Less than 8 pulses per 24-hour period	0.150
<i>On or beyond any residence district boundary line</i>	
Continuous	0.003
Impulsive	0.006
Less than 8 pulses per 24-hour period	0.015

- (8) **Standards in the Manufacturing Light District:** In the Manufacturing Light District, the maximum earth displacement permitted at the points described below shall be determined by use of the formula above and the appropriate K constant shown in the table below.

LOCATION	K
<i>On or beyond any residence district boundary line</i>	
Continuous	0.003
Impulsive	0.006
Less than 8 pulses per 24-hour period	0.015

**Section 23.709 Noise Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the creation of noise which adversely effects adjoining properties in order to prevent the creation of nuisances and to promote the general welfare of the public.
- (2) **Applicability:** The requirements of this Section apply to all uses and activities which create detectable noise, except that these standards shall not apply to noise created during the construction of the principal use on the subject property, or by incidental traffic, parking, loading, maintenance or agricultural operations.
- (3) **Requirements:**  
 All noise shall be muffled so as not be objectionable due to intermittence, beat frequency or shrillness. In no event shall the sound-pressure level of noise radiated continuously from a facility exceed at the lot line of the subject property the values given in Table 23.709(3)(a) (set out hereafter) as measured by, at the minimum, a Type 2 sound meter that is in compliance with ANSI standard S1.4-1983, where said lot abuts property within any residential, office, commercial zoning district, or the Manufacturing Light (ML) District. (See Section 22.102.)

Table 23.709(3)(a): Maximum Permitted Noise Level at Lot Line For Noise Radiated Continuously (*) (**)	
Zoning District	Increase in Noise Level over Ambient Level (dBA)
RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12	plus 3 dBA
ON, OP, BR, ML, BN, BL, BC	plus 5 dBA
MG, MH	plus 8 dBA
<p>* If the noise is not smooth and continuous or is present only during day time hours, one or more of the corrections, in Table 23.709(3)(b) on the following page, shall be added to or subtracted from each of the decibel levels given above in Table 23.709(3)(a).</p> <p>** Noise limits for land uses and activities in the Manufacturing General and Manufacturing Heavy zoning districts shall be measured along the boundary of the MG or MH zoning districts, where they abut the City's RS-2, RS-3, RS-5, RM-8, RM-12, Rs-2, Rm2S, ON and OP Zoning Districts. (RC-46, 8/11/98)</p>	

Table 23.709(3)(b) Adjustment Factors for Maximum Noise Levels	
Type of Operation in Character of Noise	Correction in Decibels
Daytime operation only	plus 5
Noise source operates less than 20% of any one-hour period	plus 5*
Noise source operates less than 5% of any one-hour period	plus 10*
Noise source operates less than 1% of any one-hour period	plus 15*
Noise of impulsive character (Hammering, etc.)	minus 5
Noise of periodic character (hum, speech, etc.)	minus 5
* Apply one of these corrections only.	

**Section 23.710 Air Pollution Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the creation of air pollution which adversely effects adjoining properties in order to prevent the creation of nuisances and to promote the general welfare of the public.
- (2) **Applicability:** The requirements of this Section apply to all land uses and activities, except that these standards shall not apply to air pollution created during the construction of the principal use on the subject property, or by incidental traffic, parking, loading, or maintenance operations.
- (3) **Standards:**
  - (a) The emission, from all sources within any lot, of particulate matter containing a particle diameter larger than 44 microns is prohibited.
  - (b) Emission of smoke or particulate matter of density equal to, or greater than Number 2 on the Ringelmann Chart (US Bureau of Mines) is prohibited at all times.
  - (c) Dust and other types of air pollution borne by the wind from such sources as storage areas, yards, and roads within the boundaries of any lot shall be kept to a minimum by appropriate landscaping, paving, oiling or other acceptable means.
  - (d) All applicable state and federal standards.

**Section 23.711 Odor Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the creation of odor which adversely effects adjoining properties in order to prevent the creation of nuisances and to promote the general welfare of the public.
- (2) **Applicability:** The requirements of this Section apply to all land uses and activities, except that these standards shall not apply to odors created during the construction of the principal use on the subject property, or by incidental traffic, parking, loading, or maintenance operations. Public landfills and public sanitary sewage treatment plants shall be exempted from the requirements of this Section as essential public services.

- (3) **Standards:** Except for food preparation and cooking odors emanating from residential land uses, odors associated with property development and maintenance (such as construction, lawn care, and the painting and roofing of structures), and odors associated with necessary public facilities and services, no odor shall be created for periods exceeding a total of 15 minutes per any day which are detectable (by a healthy observer such as the Zoning Administrator or a designee who is unaffected by background odors such as tobacco or food) at the boundary of the subject property, where said lot abuts property within any residential, office, commercial zoning district, or the Manufacturing Light (ML) District. (See Section 22.102.)

### **Section 23.712 Electromagnetic Radiation Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the creation of electromagnetic radiation which adversely effects adjoining properties in order to prevent the creation of nuisances and to promote the general welfare of the public.
- (2) **Applicability:** The requirements of this Section apply to all land uses and activities.
- (3) **Standards:** It shall be unlawful to operate or cause to be operated any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes which does not comply with the then current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation. Further, said operation in compliance with the Federal Communications Commission shall be unlawful if such radiation causes an abnormal degradation in performance of other electromagnetic radiators or electromagnetic receptors of quality and proper design because of proximity, primary field, blanketing, spurious radiation, harmonic content, modulation or energy conducted by power or telephone lines. The determination of "abnormal degradation in performance" and "of quality and proper design" shall be made in accordance with good engineering practices as defined in the latest principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers, and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in the interpretation of the standards and principles shall apply: (1) American Institute of Electrical Engineers, (2) Institute of Radio Engineers, and (3) Electronic Industries Association.

### **Section 23.713 Glare and Heat Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the creation of glare or heat which adversely effects adjoining properties in order to prevent the creation of nuisances and to promote the general welfare of the public.
- (2) **Applicability:** The requirements of this Section apply to all land uses, except that these standards shall not apply to glare created during the construction of the principal use on the subject property, or by incidental traffic, parking, loading, or maintenance operations.



- (3) **Standards:** No direct or sky-reflected glare, whether from floodlights or from temperature processes such as combustion or welding or otherwise, so as to be visible at the lot line of the subject property shall be permitted. (See also, Section 23.707.) Furthermore, there shall be no transmission of heat or heated air so as to be discernible (by a healthy observer such as the Zoning Administrator or a designee) at the lot line. Solar systems regulated by Wisconsin Statutes 66.03 shall be entitled to the protection of its provisions.

#### **Section 23.714 Fire and Explosion Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the creation of fire and/or explosion hazards which adversely effect adjoining properties in order to prevent the creation of nuisances and to promote the general welfare of the public.
- (2) **Applicability:** The requirements of this Section apply to all land uses and activities.
- (3) **Standards:** Any use involving materials which could decompose by detonation shall locate such materials not less than 400 feet from any residential or office zoning district (see Section 22.102), except that this standard shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or business purposes. All activities and storage of flammable and explosive materials at any point shall be provided with adequate safety and fire fighting devices in accordance with all fire prevention codes of the State of Wisconsin.

#### **Section 23.715 Toxic or Noxious Material Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the handling of toxic or noxious material which adversely effects adjoining properties in order to prevent the creation of nuisances and to promote the general welfare of the public.
- (2) **Applicability:** The requirements of this Section apply to all land uses and activities.
- (3) **Standards:**
  - (a) No use shall discharge across the boundaries of the subject property, or through percolation into the subsoil, toxic or noxious material in such concentration as to be detrimental to, or endanger, the public health, safety, comfort, or welfare, or cause injury or damage to the property or business.
  - (b) No use shall discharge at any point into any public or private sewage disposal system or stream, or into the ground, any liquid or solid materials except in accordance with the regulations of the Wisconsin Department of Public Health.

#### **Section 23.716 Waste Material Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the handling of waste material which adversely effects adjoining properties in order to prevent the creation of nuisances and to promote the general welfare of the public.

- (2) **Applicability:** The requirements of this Section apply to all land uses and activities.
- (3) **Standards:**
  - (a) No use shall discharge across the boundaries of the subject property, or through percolation into the subsoil, toxic or noxious material in such concentration as to be detrimental to, or endanger, the public health, safety, comfort, or welfare, or cause injury or damage to the property or business.
  - (b) No use shall discharge at any point into any public or private sewage disposal system or stream, or into the ground, any liquid or solid materials except in accordance with the regulations of the Wisconsin Department of Natural Resources.

**Section 23.717 Drainage Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the creation of drainage which adversely effects adjoining properties in order to prevent the creation of nuisances and to promote the general welfare of the public. Any new single-site development or redevelopment project which includes the construction of 10,000 square feet or more of impervious area shall comply with the storm water requirements of the City of Delavan Subdivision Regulations. (RC-83, 12/14/99)
- (2) **Applicability:** The requirements of this Section apply to all land uses and activities.
- (3) **Standards:** No land shall be developed and no use shall be permitted that results in water runoff which causes property damage, a nuisance, and/or erosion on adjacent properties. Such runoff shall be properly conveyed to a public storm drain, drainageway or other such public drainage facility per the approval of the Director of Public Works.

**Section 23.718 Exterior Construction Material Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the use of certain exterior construction materials creation so as to attain a degree of uniformity in exterior appearance, and thus maintain and enhance the attractiveness and property value of certain zoning districts.
- (2) **Applicability:** The requirements of this Section apply to all land uses and activities.
- (3) **Standards for all Residential, Office, Commercial, and the ML Zoning Districts:** Except for exposed foundations not to exceed three feet in height from the adjacent grade, all development located within the RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, ON, OP, BN, BR, BL, BC, and ML zoning districts (see Section 22.102) shall employ only high-quality, decorative exterior construction materials (as determined by the Zoning Commissioner) on the visible exterior of the following portions of all structures and buildings:
  - (a) any portion of the building or structure visible from adjacent residentially zoned property;
  - (b) any portion of the building or structure located within 50 feet of a public right-of-way; or,
  - (c) any other portion of the building or structure visible from a public street and/or situated at an angle of 60 degrees or less: from a line which is parallel to the nearest right-of-way (for uncurved rights-of-way); or from a line which is parallel to a chord connecting the right-of-way boundary on the inside side of the curve at points located at, or opposite from, the two outer boundaries of the subject property along the right-of-way line (for curved rights-of-way).

- (4) **Exceptions:** the Conditional Use Process (per Section 24.905) may be used to propose the use of a material otherwise prohibited by subsection (3) above.

**Section 23.719 Hazardous Materials Standards**

- (1) **Purpose:** The purpose of this Section is to provide information to the City regarding the nature of land uses which involve research, production, storage, disposal, handling, and/or shipment of hazardous materials.
- (2) **Applicability:** The requirements of this Section apply to all land uses and activities involving any one or more of the following:
  - (a) **Micro-Organism Cultures** subject to Wisconsin Statutes 94.65;
  - (b) **Pesticides** subject to Wisconsin Statutes 94.67(25);
  - (c) **Biological Products** subject to Wisconsin Statutes 95.39;
  - (d) **Hazardous Substances** subject to Wisconsin Statutes 100.37(1)(c);
  - (e) **Toxic Substances** subject to Wisconsin Statutes 101.58(2)(j);
  - (f) **Infectious Agents** subject to Wisconsin Statutes 101.58(2)(f) or;
  - (g) Any material for which the State of Wisconsin requires notification of a local fire department
  - (h) Any other uses, activities, or materials which are subject to County, State, or Federal hazardous, or related, materials regulations.
- (3) **Standards**  
All land uses involving such hazardous materials shall submit a written description of such materials and the operations involving such materials conducted on their property as part of the required site plan submittal. (See Section 24.908)

**Section 23.720 Fencing Standards**

- (1) **Purpose:** The purpose of this Section is to regulate the materials, location, height, and maintenance of fencing, landscaping walls and decorative posts (such as entry pillars, bollards, or columns) in order to prevent the creation of nuisances and to promote the general welfare of the public.
- (2) **Applicability:** The requirements of this Section apply to all fencing, landscape walls and decorative posts equal to, or exceeding, 30 inches in height, for all land uses and activities.
- (3) **Standards:**
  - (a) **Materials:**
    - 1. **Residential Districts:** Acceptable materials for constructing fencing, landscape walls, and decorative posts include wood, stone, brick, wrought iron, chain link, and wire mesh, except that wire mesh fencing is not permitted within required front yard or street yard areas. Any fence within a street yard, including along property lines which intersect a right-of-way, shall be a maximum of 50% opaque.
    - 2. **Nonresidential Districts:** Acceptable materials for constructing fencing, landscape walls, and decorative posts include wood, stone, brick, wrought iron, chain link, and wire mesh. Barbed wire fencing is permitted to create a security fence, at heights equal to or greater than ten feet (120"). This height requirement may be increased with the granting of a Conditional Use Permit (per Section 24.905.) Any fence within a street yard, including along property lines which intersect a right-of-way, shall be a maximum of 50% opaque.

3. **Temporary Fencing:** Temporary fencing, including the use of wood or plastic snow fences for the purposes of limiting snow drifting between November 1 and April 1, protection of excavation and construction sites, and the protection of plants during grading and construction is permitted for up to 90 consecutive days and no more than 90 consecutive days per calendar year. Fencing for excavation sites shall be a minimum of 48 inches.
  4. **Snow Fences:** Snow fences constructed of wood and wire, and/or plastic shall be permitted only as temporary fences.
- (b) **Location:** On all properties, no fence, landscape wall, or decorative post shall be located closer than 1 foot to the front yard or street yard property line. Fences may be located on any property line abutting a side or rear yard.
- (c) **Maximum Height:** The maximum height of any fence, landscape wall, or decorative post shall be the following:
1. 4 feet when located within a required front yard or required street yard on any property, and shall be 50% opaque; landscape wall shall be located no closer than 6 feet from street right-of-way;
  2. 6 feet when located on any residentially zoned property, but not within a required front yard or a required street yard; and
  3. 6 feet when located on any nonresidentially zoned property, but not within a required front yard or a required street yard, except that security fences may exceed this height.
  4. The maximum heights listed for Subsections (c)(1-3), above, may be exceeded with the approval of a conditional use permit per Section 24.905. The following conditions (at a minimum) shall be established for such requests:
    - a. The increase in height shall in no way further obstruct vision for intersecting streets, driveways, sidewalks or other traffic areas;
    - b. The fence shall be screened on its external side with adequate plants so as to maintain an attractive appearance to said side.
    - c. The fence shall be setback from the property line beyond the requirement of Subsection (3)(b), above, such distance as appropriate to contain adequate landscaping per b., above, and so as to maintain an attractive relationship to fence's external side.
- (d) **Orientation:** Any and all fences, landscape walls, or decorative posts shall be erected so as to locate visible supports and other structural components toward the subject property.
- (e) **Maintenance:** Any and all fences, landscape walls, or decorative posts shall be maintained in a structurally sound and attractive manner.
- (f) **Swimming Pools:** Swimming pools not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, shall not be less than four (4) feet in height, and shall be so constructed so as not to have voids, holes or openings larger than four (4) inches in one dimension. Above-ground pools with built-in fencing and locking gates to prevent unguarded entry will be allowed without separate additional fencing, provided the built-in fencing is not less than the minimum height and design as heretofore specified. No fence shall be located, erected, constructed or maintained closer to a pool than three feet.

### **Section 23.721 Administration & Enforcement of Performance Standards**

- (1) Determinations necessary for administration and enforcement of performance standards set forth herein range from those which can be made with satisfactory accuracy by a reasonable person using normal senses and no mechanical equipment, to those requiring great technical competence and complex equipment for precise measurement. It is the intent of this Title that:
  - (a) Where determinations can be made by the Zoning Administrator using equipment normally available to the City or obtainable without extraordinary expense, such determinations shall be so made before notice of violations is issued.
  - (b) Where technical complexity or extraordinary expense makes it unreasonable for the City to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be available for causing corrections or apparent violations of performance standards, for protecting individuals from arbitrary, capricious, and unreasonable administration and enforcement of performance standard regulations, and for protecting the general public from unnecessary costs for administration and enforcement.
    1. The Zoning Administrator shall give written notice, by Certified mail or other means, ensuring a signed receipt for such notice to the person or persons responsible for the alleged violations. The notice shall describe the particulars of the alleged violation and the reasons why the Zoning Administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation to the satisfaction of the Zoning Administrator.
    2. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the administrative official within the time limit set constitutes admission of violation of the terms of this Title. The notice shall further state that upon request of those to whom it is directed, technical determination as described in this Title will be made, and that if violations as alleged are found, costs of such determinations shall be charged against those responsible for the violation, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the determination will be paid by the City.
- (2) Enforcement of the provisions of this Subchapter shall be per Section 24.936.

### **Section 23.722 Public Art Standards** (RC-345, 9/9/14)

- (1) **Purpose:** The purpose of this Section is to exempt Public Art, defined in Section 21.034, which is created and maintained under the provisions of Title 7, Chapter 15 of the Municipal Code from the regulations of the Zoning Ordinance. This exemption from the regulations of the Zoning Ordinance is conditioned on the establishment and maintenance of Title 7, Chapter 15 of the Municipal Code providing for Public Art, and a related review and permitting process with review and recommendation by the Plan Commission and formal approval by the Common Council.
- (2) **Applicability:** To Public Art permitted under Title 7, Chapter 15 of the Municipal Code.
- (3) **Permit Required:** Public Art exempted under this section must be permitted as provided for in Title 7, Chapter 15 of the Municipal Code. Any revocation or termination of the permit shall result in the immediate termination of the exception to the Zoning Code provided herein and shall require the removal of the Public Art within 60 days of the date of the notice of revocation or termination of the permit or sooner based upon a finding of the Common Council that it is a detriment to the public health, safety, or welfare of the community.