

**CITY OF KAUKAUNA
ORDINANCE 1874-2022**

ORDINANCE REPEALING SECTION 17.32(10)

WHEREAS, the City of Kaukauna Common Council adopted Ordinance 1872 Creating Section 17.52 Landscaping Requirements of the Municipal Code of Ordinances; and

WHEREAS, Section 17.32(10) is no longer needed as Section 17.52 is more specific as to the landscaping requirements; and

WHEREAS, upon repealing of Section 17.32(10), pursuant to Section 25.08, all references to Section 17.32(10) shall be replaced within the zoning ordinance;

NOW THEREFORE, be it ordained by the Common Council of the City of Kaukauna, in the State of Wisconsin, as follows:

SECTION 1: **REPEAL** “17.32 Supplementary District Regulations” of the City of Kaukauna Municipal Code is hereby *repealed* as follows:

R E P E A L

17.32 Supplementary District Regulations

1. *General application.* The regulations set forth in this section shall supplement or modify the regulations set forth in other applicable regulations set forth in this chapter.
2. *Lots and yards.*
 - a. *More than one building per lot.* In any district, more than one building housing a principal use may be erected on a single lot, provided that yard and other requirements of these regulations shall be met for each building as though it were on an individual lot.
 - b. *Through lots.* On through lots, the required front yard shall be as provided on each street, except that on through lots fronting limited access roads, the setbacks for fences, hedges, berms, or accessory buildings shall be as if for a rear yard setback in the yard adjacent a limited access road.
 - c. *Development in mapped streets.* Where an official line has been established for the future widening or opening of a street, the depth of a front yard or the width of a side yard shall be measured from such official line to the nearest line of the building.
 - d. *Access.* Every building housing a principal use erected or moved shall be on a lot with direct access to a public street and all such buildings shall be so located as to provide safe and convenient access for servicing and off-street parking.
 - e. *Building groups.* In any nonresidential district, a group of buildings separated

only by common or party walls shall be considered as one building.

f. *Yard encroachments.* Every part of every required yard shall be open and unobstructed from 30 inches above the general ground level of the graded lot upward to the sky except as provided in this chapter or as otherwise permitted in these regulations:

- (1) Roof eaves may project into a required side yard not more than three feet where the required side yard is eight feet or more in width. Roof eaves may project into a required side yard not more than two feet where the required side yard is less than eight feet.
- (2) Sills, belt courses, cornices, vertical solar screens, and other ornamental features may project not over one foot into a required yard.
- (3) Fire escapes, stairways, and balconies, whether unroofed, open and unenclosed, or enclosed, shall not intrude into required yards.
- (4) Solar collectors which are part of the principal building may extend into a required rear yard for a distance not to exceed ten feet, and solar collectors may extend into a required side yard, provided that they have a minimum seven-foot clearance from grade, and provided, further, that such extension shall be at least five feet distant from the adjacent lot line and shall not extend more than three feet from the building.

g. *Corner lots.* On corner lots, the street side yard shall equal the required front yard for lots fronting on that street.

h. *Through lot map.* There shall be created and maintained for public review within the department of public works a through lot map that designates all through lots within the corporate limits of the city. The map shall label those roads listed as a limited access road for purposes of issuing building permits.

3. *Accessory uses and structures.*

a. *Accessory buildings on vacant lots.* In any residential district, no accessory building shall be built on a lot without a principal building.

b. *Fences, hedges and retaining walls.*

- (1) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Hedge means any combination of two or more vegetative plants that, when mature, provides an opaque visual barrier of 50 percent or more.

Height of fence, hedge, or retaining wall means the vertical height of a fence, hedge or retaining wall shall be measured from the grade adjacent to the fence, hedge or foot of a retaining wall.

Permanent fence means fences intended, designed, and constructed to be in place for longer than six months.

Permanent fence materials. Permanent fences shall be constructed of naturally decay-resistant or treated wood, galvanized or vinyl-coated chainlink, prefabricated or manufactured vinyl, wrought iron, brick, masonry, concrete, stone or other similar materials as approved by the building inspector.

Prohibited fences, except as may be permitted in areas zoned IND Industrial, no fence may be constructed with barbed or razor wire or designed to produce an electric shock or in any way designed to create a risk of injury to one crossing the fence.

Retaining wall means a vertical or nearly vertical wall constructed to prevent lateral movement of soil.

Retaining wall materials means retaining walls shall be constructed of naturally decay-resistant or treated wood, masonry brick and stone, landscape blocks designed for the purpose or other materials as approved by the building inspector.

Temporary fences means fences intended, designed, and constructed to be in place for a maximum of six months, as evidenced by no permit being obtained prior to construction. Erosion control fences are an exception.

Temporary fence materials means materials commonly known as "snow fence," "construction fence," "welded wire," "chicken wire" or other similar materials. Temporary fences may be supported with impact-driven posts.

(2) *Permits and fees.*

(A) *Permits required.* All permanent fences and retaining walls, regardless of length or height, shall require a permit to be issued by the building inspector. Hedges are exempt from permits and fees.

(B) *Permit fees.* Permit fees shall be established by common council resolution and fee schedules shall be kept on file in the office of the city clerk.

(3) *Temporary fences in residential zoning:*

(A) Temporary fences used for the protection of plantings, the control of snow or similar uses shall be permitted in residential zoning, provided that all of the height and location requirements for permanent fences are followed.

(B) Temporary fences are required to be removed no later than six

months after placement. Temporary fences may not be re-established sooner than six months after removal.

(C) Permits are not required for temporary fences.

(4) *Permanent fences and hedges in areas zoned residential.*

(A) *Fences and hedges in front yard.*

(a) *Height.* Fences and hedges in front yards shall have a maximum vertical height of 42 inches.

(b) *Visibility.* Fences in front yards shall be constructed to provide a minimum of 50 percent through-visibility.

(c) *Additional requirements.* Additional requirements, as required under section 8.11 of this Code, to include streets, alleys, and driveways.

(B) *Fences and hedges in side and rear yards.*

(a) *Fences.* Fences in rear and side yards shall have a maximum vertical height of 72 inches.

(b) *Hedges.* Hedges in rear and side yards may be allowed to grow to a natural height.

(c) *Additional requirements.* Additional requirements, as required under section 8.11 of this Code,, to include streets, alleys, and driveways.

(C) *Locations of fences and hedges.*

(a) *Location of fences.* Fences may be located such that the finished exterior surface is at the property line.

(b) *Location of hedges.* Hedges shall be planted such that, when mature, foliage will not extend beyond the property line. This planting requirement shall not subject an owner to city enforcement action for hedges planted prior to the adoption of this revision.

(c) *Location of property lines.* It shall be the responsibility of the property owner or permit holder to provide, to the satisfaction of the building inspector, an accurate, on-site representation of the property line. This shall include, but is not limited to:

1. The physical recovery and exposure of official property stakes or irons and the provision of a string line identifying the property line.

2. If unable to comply with subsection (3)

(b)4.c.iii.A of this section, then, if requested by the building inspector, and at the expense of the owner or permit holder, a survey, signed and sealed by a state-registered land surveyor certifying the location of the finished fence shall be provided to the building inspector.

3. Appearance of fence: fences shall be constructed such that all supporting vertical and horizontal framing members of the fence shall face the interior of the lot on which the fence is erected.
4. Structural integrity: all fences shall be constructed to withstand a wind load of at least 30 pounds per square foot. The construction of any opaque fence that is four feet or more in height shall be properly anchored into a depth of not less than 36 inches below grade.

(5) *Retaining walls in residential zoning.*

(A) *Height.*

- (a) *Requirements.* A retaining wall within six feet of a property line shall have a maximum height of 24 inches. An additional wall may be erected, provided that a minimum 24-inch horizontal terrace is established between the lower and upper walls. Retaining walls with a total vertical height of greater than 48 inches shall be permitted only when designed through structural analysis by a registered professional.
- (b) *Additional requirements.* Additional requirements, as required under section 8.11, to include streets, alleys, and driveways.

(B) *Location.* Retaining walls shall be located such that the finished exterior surface is one foot inside of the property line.

(C) *Location of property lines.* It shall be the responsibility of the property owner or permit holder to provide, to the satisfaction of the building inspector, an accurate, on-site representation of the property line. This shall include, but is not limited to:

- (a) The physical recovery and exposure of official property stakes or irons and the provision of a string line identifying the property line.
- (b) If unable to comply with subsection (3)(b)5.C.a of this section, then, if requested by the building inspector, at the expense of the owner or permit holder, a survey, signed and sealed by a state-registered land surveyor, certifying the location of the finished retaining wall, shall be provided to the building inspector.

(6) *Fences, hedges, and retaining walls in commercial, business, and institutional zoning.*

(A) *Requirements.* Except as provided in section 17.32(10),

landscape buffers, fences, hedges and retaining walls shall comply with the requirements of fences, hedges and retaining walls in residential zoning.

(B) *Special exceptions.* Upon providing evidence of need, the city plan commission may grant a special exception to the requirements of this section.

(7) *Fences, hedges, and retaining walls in industrial zoning.* Fences, hedges, and retaining walls in industrial zoning shall comply with the requirements of fences, hedges, and retaining walls in residential zoning with the following exceptions:

(A) Fences within industrial zoning shall have a maximum vertical height of eight feet.

(B) In industrial zoning, a barbed wire topper is permitted on a seven-foot high fence, provided that:

(a) The total height of the fence with the topper does not exceed eight feet.

(b) Topper arms that extend out may not extend over the property line.

(C) Except as provided in section 17.32(10), landscape buffers.

(D) Special exceptions: upon providing evidence of need, the city plan commission may grant a special exception to the requirements of this section.

c. *Accessory parking and storage.*

(1) In all residential districts, driveways in the front yard setbacks emplaced to provide access to an open parking area in the side or rear yard or to a garage or carport in the rear yard shall not be wider than 12 feet. In no case shall a driveway, patio, or any concrete or nonpermeable surface be placed within two feet of a property line. Expansions of driveways after construction require a permit from the Building Inspection department.

In RSF zoning, maximum driveway width at the curb shall be the width at the right of way plus the flared driving area width as determined by the City Engineer, or designee, in no case shall driveway width curb exceed 37'. Driveway width right of way in RSF zoning shall not exceed the least of the following:

(A) For Attached and Front Yard Detached Garages:

(a) 34' maximum

(b) Width of the Outer-most to Inner-most garage door opening plus 4'

(c) 40% of the lot frontage

(B) For Rear Yard Garage/Parking (Access from Street):

(a) 12' maximum

(C) For Rear Year Garage (Access from Alley):

(a) Width of the garage frontage + 12'

(D) 50% of the lot frontage on the alley

Exception: In all residential districts, driveways in the front yard setbacks emplaced to provide access to a garage or carport attached or adjacent to the front or side of the principal building shall be no more than 12 feet wider than the width of such garage or carport. All driveway expansions in the front or side yard setback shall remain a minimum of two feet off of a property line.

- (2) *Persons who shall store any motor vehicle, vehicular-driven sports vehicle, boat, trailer, utility trailer, vehicular-driven camper, or any like business or recreational vehicle in the required front yard of any residential district, shall store such vehicles on the driveway emplaced to provide access to the garage. Such vehicles may be stored on driveway expansions in the side yard setback that extend beyond the width of the garage provided that the storage is in the side yard only – behind the garage opening, but not in the rear yard behind the garage or house. Any of the vehicles in this subsection parked within the front or side yards on the driveway shall be parked in such a manner as to maintain all wheels and the trailer tongues on the driveway surface.*
 - (3) *No person shall park or store such units as defined in this subsection or any other equipment on any terrace in the city except for those places where the common council has authorized the removal of a terrace for the purpose of parking.*
 - (4) *The parking and storage of unregistered or inoperable vehicles shall be as governed under section 10.07.*
 - (5) *No person shall store in the open more than three full cords of firewood in any residential district. No firewood shall be stored in any front yard or closer than two feet to any residential lot line.*
 4. *Height exceptions. The height limitations in sections 17.15, 17.16 and 17.18 through 17.28 do not apply to belfries, cupolas, antennas, water tanks, elevator bulkheads, chimneys, spires, flagpoles, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.*
 5. *Corner visibility. On a corner lot in all zoning districts, no fence, wall, hedge, planting, or structure shall be erected, placed, planted, or allowed to grow in such a manner as to obstruct vision between a height of 2 1/2 feet and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along such street lines 50 feet from the point of intersection.*
 6. *Signs.*
 - a. *Prohibited signs. The following exterior building signs shall be prohibited within the city:*
 - (1) *Abandoned signs.*
 - (2) *Flashing signs, remnants, banners, streamers, and all other fluttering or spinning signs, except in connection with temporary sales, civic or cultural events, or officially recognized holidays.*

- (3) Signs attached to trees, telephone poles, public benches, street lights, or placed on any public property or public right-of-way.*
- (4) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying such sign, excluding allowed portable signs or signs or lettering on buses, taxies, or vehicles operated during the normal course of business.*
- (5) Signs displaying flashing or intermittent lights customarily associated with danger or emergencies. An illuminated sign or lighting device shall employ only lights of constant intensity and no sign shall be illuminated by or contain flashing, intermittent, rotating, or moving lights or lights creating the illusion of movement. Signs located wholly within a building, public service information signs, and other electronic message or mechanical message centers which are classified as changing signs are permitted and are not subject to this restriction.*
- (6) Signs which purport to be or are an imitation of or resemble an official traffic sign or signal or which bear words "stop," "caution," "warning" or similar words that are displayed in the colors normally associated with them as official signs are prohibited.*

b. Construction specifications.

- (1) All signs shall be constructed in accordance with the requirements of chapter 14 of this Code and the national electric code, as amended, and the additional construction standards set forth in this section, where applicable.*
- (2) All ground and roof sign structures shall be self-supporting Structures and permanently attached to sufficient foundations.*
- (3) Electric service to ground signs shall be concealed.*
- (4) All signs, except those attached flat against the wall of a building, shall be constructed to withstand wind loads as follows, with correct engineering adjustments for the height of the sign above grade:
 - (A) For solid signs: 30 pounds per square foot on any face of the sign or structure.*
 - (B) For skeleton signs: 30 pounds per square foot of the total face cover of the letters and other sign surfaces or ten pounds per square foot of the gross area of the sign as determined by the overall dimensions of the sign, whichever is greater.**
- (5) No sign shall be suspended by nonrigid attachments that will allow the sign to swing due to wind action. All freestanding signs shall have self-supporting structures erected on or permanently attached to concrete foundations. All nonpermanent signs shall be braced or secured to prevent motion.*
- (6) No sign shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, or door opening used as a*

means of ingress and egress.

(7) No sign shall be attached in any form, shape, or manner which will interfere with any opening required for ventilation, except that signs may be erected in front of and may cover transom windows when not in violation of the provisions of the city fire prevention code.

(8) Signs shall be located in such a way as to maintain horizontal and vertical clearance of all overhead conductors in accordance with the national electrical code specifications, depending on voltages concerned. However, in no case shall a sign be installed closer than six inches horizontally or vertically from any conductor or public utility guy wire.

c. Signs in residential districts. No sign in a residential district shall exceed eight feet in height or produce artificial light from within.

d. Signs in commercial districts.

(1) Temporary window signs advertising a sale or special event at an individual commercial establishment shall be exempt from the sign regulations.

(2) A detached sign, any part of which is closer than 15 feet to the right-of-way shall have a minimum vertical distance of ten feet between the bottom of the sign and the grade at the right-of-way line or shall not be more than three feet in height above grade.

(3) Any detached sign or projecting sign within 25 feet of an intersection or 15 feet of a driveway shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of ten feet or shall be not more than three feet in height above grade.

(4) All other projecting signs shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of nine feet.

(5) Canopy, marquee, and awning signs shall be placed at such a height so that the extreme lower edge of such structure is at least seven feet above sidewalk grade and such signs shall not extend more than 72 inches into the public right-of-way. The vertical dimension of a sign, any portion of which is below the lower edge of the canopy or marquee structure, shall not exceed 20 inches.

(6) Detached signs shall not project more than 72 inches into the public right-of-way, but in no case closer than two feet from the curblin as measured from the property line. The area of a ground sign shall not exceed 150 square feet per side.

e. Billboard requirements. Pursuant to chapter 14 of this Code, the following regulations shall be enforced:

(1) No billboards may be erected within a 500-foot radius of another existing billboard.

(2) No billboard may be erected within 200 feet of an existing residential use or within 200 feet of a residential district.

- (3) The maximum size of billboards shall be 300 square feet on each face, except within 100 feet of U.S. 41, where the maximum size shall be 400 square feet on each face.*
- (4) Billboards shall be set back from all property lines and existing buildings equal to the height to the top of the billboard.*
- (5) Roof-mounted billboards are not permitted.*
- (6) Billboards shall only be permitted in the commercial highway, commercial shopping center, industrial, and industrial park districts.*
- (7) All billboards which are not in conformance with the above provisions shall be placed in conformance no later than July 9, 1990.*
- (8) Exception. Signage permitted under section 17.24(6)(a) of this chapter.*

f. Installation, maintenance, and repair.

- (1) All signs shall be constructed and installed in accordance with the requirements of chapter 14 of this Code and the national electric code. Every sign, including, but not limited to, those signs for which permits are required, shall be maintained in a safe, presentable and good structural condition at all times, including replacement of defective parts, painting, except when a weathered or natural surface is intended, repainting, cleaning, and other acts required for the maintenance of such signs.*
- (2) The building inspector shall require compliance with all standards of this chapter. If the sign is not maintained to comply with safety standards outlined under chapter 14 of this Code, the building inspector shall require its removal in accordance with this section.*

g. Abandoned signs. Except as otherwise provided in this chapter, any sign that is located on property which becomes vacant and is unoccupied for a period of two months or more or any sign which pertains to a time, event, or purpose which no longer applies shall be deemed to have been abandoned.

Permanent signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of three months or more. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises. If the owner fails to remove the sign, the building inspector shall take appropriate legal action to cause the same to be removed.

h. Defective signs and signs for which no permit has been issued. The building inspector shall cause to be removed or repaired any sign that is defective or endangers the public safety, such as a dangerous or materially, electrically, or structurally defective sign or a sign for which no permit has been issued.

i. Notice. The building inspector shall give the owner of the sign 30 days' written notice to remove any abandoned sign, repair, or remove any defective sign or to remove a sign for which no permit has been issued. The notice shall describe the sign and specify the violation involved. The notice shall be sent

by certified mail.

j. Appeals.

- (1) The owner of the sign may appeal the determination of the building inspector ordering removal or compliance by filing a written notice of appeal under section 17.50 within 30 days after the date of mailing the notice.*
- (2) For property located within the commercial core district, the owner of the sign may appeal to and be heard before the redevelopment authority.*

k. Removal of signs by the building inspector.

- (1) Notwithstanding the above, in cases of emergency, the building inspector may cause the immediate removal without notice of a dangerous or defective sign or for failure to comply with the written order of removal or repair.*
- (2) After removal or demolition of the sign, a notice shall be mailed to the owner of the sign stating the nature of the work and the date on which it was performed and demanding payment of the costs as certified by the building inspector, together with an additional ten percent for inspection and incidental costs.*
- (3) If the amount specified in the notice is not paid within 30 days of the notice, it shall become an assessment against the property of the sign owner and will be certified as an assessment against the property, together with interest at ten percent per annum, for collection in the same manner as real estate taxes.*
- (4) The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon, unless facts to the contrary are brought to the attention of the building inspector as in the case of a leased sign.*
- (5) For the purpose of removal, the definition of the term "sign" includes all sign embellishments and structures designed specifically to support the sign.*

7. Off-street parking.

- a. Requirements not specified. Parking requirements for a use not specified shall be the same as required for a use of similar nature or sufficient off-street parking shall be provided such that no public street shall be used for parking.*
- b. Fractional spaces. Where computation of the required parking spaces results in a fractional number, only the fraction of two or larger shall be counted as one.*
- c. Changes in buildings or use. Whenever a building or use is changed, structurally altered, or enlarged to create a need for an increase of 25 percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of 50 percent or more in the floor area, such building or use shall then comply with the parking requirements set forth in*

the district in which it is located.

- d. Mixed uses. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the uses computed separately.*
- e. Joint use. Two or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided such uses are not operated during the same hours. A written agreement satisfactory to the city attorney shall accompany any joint use arrangement.*
- f. Off-lot parking. Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met such parking spaces may be located off lot, provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the city attorney. Off-lot parking spaces for residential uses shall be within 200 feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within 300 feet of the entrance of the establishment.*
- g. Off-street parking; measurement. Floor space or area shall mean the gross floor area inside exterior walls, where floor space is indicated in section 17.15, 17.16, and 17.18 through 17.28 as a basis for determining the amount of off-street parking required.*
- h. Design standards.*
 - (1) Each required off-street parking space shall have a stall width of at least nine feet and a stall length of at least 18 feet.*
 - (2) Minimum width of aisles providing access to stalls for one-way traffic shall be as follows:*
 - (A) 11 feet for 30-degree parking.*
 - (B) 20 feet for 90-degree parking.*
 - (3) Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet.*
 - (4) No parking area of more than two spaces shall be designed as to require any vehicle to back into a public street.*
 - (5) Any parking area of more than five spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses.*
 - (6) Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.*
 - (7) All parking areas shall be surfaced with a durable, dustproof surface consisting of concrete or bituminous concrete or of compacted gravel or crushed stone properly sealed and surface treated.*

8. Off-street loading.

- a. Loading space requirements. The loading space requirements specified in the following table shall apply to all districts.*

Use	Floor Area (square feet)	Loading Spaces
Retail, wholesale, warehouse, service, manufacturing, and industrial establishments	2,000— 10,000	1
	10,000— 20,000	2
	20,000— 40,000	3
	40,000— 60,000	4
	Each additional 50,000	1
Hotels, offices, hospitals, places of public assembly	5,000— 10,000	1
	10,000— 50,000	2
	50,000— 100,000	3
	Each additional 25,000	1
Funeral homes	2,500—4,000	1
	4,000—6,000	2
	Each additional 10,000	1

b. Multiple or mixed uses. Where a building is devoted to more than one use or

for different uses, and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

- c. Location. Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within 30 feet of the nearest point of intersection of two streets or require any vehicle to back into a public street.*
- d. Design standards. Each off-street loading space shall have a width of at least 12 feet, a length of at least 45 feet and a vertical clearance of at least 14 feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to ten feet in width, 25 feet in length, and eight feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect neighboring residences.*

9. Common open space.

- a. Nature. Common open space shall not include street right-of-ways, driveways, parking areas, or yards required in connection with any building.*
- b. Buildings and structures. Common open space areas may contain complementary buildings and structures appropriate for the recreational use and enjoyment of the residents of the development for which it was established.*
- c. Dedication. When common open space or any portion thereof is approved for dedication, and complementary improvements are completed and accepted, a deed shall be conveyed to the city and the supervision and maintenance shall be the responsibility of the city.*
- d. Reservation. When common open space or any portion thereof is to be reserved for the exclusive use and enjoyment of the residents of the development from which it was established, the developer shall establish conditions as to the ownership, maintenance, and use of such areas as deemed necessary by the city to ensure preservation of its intended purposes. Land designated as common open space shall be restricted by appropriate legal instrument satisfactory to the city attorney as open space perpetually or for a period of not less than 99 years. Such instrument shall be binding upon the developer, his successors, and assigns and shall constitute a covenant running with the land and be in recordable form.*
- e. Maintenance. If common open space is improperly maintained, the city may serve written notice upon any property owner or association setting forth the manner in which such property owner or association has failed to maintain the common open space and demanding that maintenance deficiencies be corrected within 30 days. If maintenance deficiencies, as originally set forth or subsequently modified, are not corrected within 30 days, the city may enter upon such common open space and correct maintenance deficiencies. The cost of such maintenance shall be assessed ratably against the properties within the development that have the right to use the area and shall become a*

tax lien on such properties. The city, at the time of entry, shall file notice of any liens in the office of the city treasurer.

- ~~10. Landscaped buffer. The use of properly planted and maintained buffer areas may reduce and ease potential incompatibility between and among different uses of land in proximity to each other.~~

~~*Requirements.* Where these regulations require a landscaped buffer area, the following requirements shall be met. *Substitution for landscaped buffer area.* Except when otherwise specifically provided by this chapter, a six feet high opaque structure set in a six feet wide landscaped buffer area may be substituted for the six feet high planted buffer above. If such opaque structure is of nonliving material, for each ten feet thereof, an average of one shrub or vine shall be planted abutting such barrier but need not be spaced ten feet apart. Such shrubs or vines shall be planted along the outside of such barrier unless they are of sufficient height at the time of planting to be readily visible over the top of such barrier. The remainder of the required landscaped areas shall be landscaped with grass, ground cover, or other landscaping. The landscaped buffer area shall not be less than eight feet in width measured at right angles to property lines and shall be established along the entire length of and contiguous to the designated property line. The area shall be so designed, planted, and maintained as to be 75 percent or more opaque between two feet and six feet above average ground level when viewed horizontally. Types and numbers of plantings for landscaped buffers shall be submitted with application for a building permit or special exception, along with plans and statements demonstrating how the buffer will be maintained in the future. Plantings shall be of a size and type which will ensure the meeting of the 75 percent opacity requirement within no longer than 12 months of the date of the first planting. Failure to maintain the landscaped buffer area as set out above shall be a violation of this chapter. *Sight distance.* When an accessway intersects a public right-of-way, all landscaping or structures shall provide unobstructed cross-visibility at a level between 2 1/2 feet and six feet within the areas of property on both sides of the accessway formed by the intersection of each side of the accessway and public right-of-way lines with two sides of each triangle being ten feet in length from the point of intersection and the third side being a line connecting the ends of the two other sides. No structure of landscaping, except required grass or ground cover, shall be located closer than three feet from the edge of any accessway pavement.~~

11. *Site plans.*

- a. Applicability and procedures.* Where, by the terms of this chapter, a site plan is required prior to the issuance of a building permit, such site plan shall be submitted to the building inspector. The building inspector shall forward such site plan to the plan commission for their recommendation. No public notice and hearing is required for site plan consideration by the plan commission, but such matters shall be handled in a public session, as part of previously prepared agenda. All matters relating to plan commission consideration of site plans shall be a public record and approval shall require formal action of the plan commission. The site plan shall be submitted to the plan commission not less than 15 days prior to the public meeting of the plan commission at which

approval is to be considered.

b. Contents. A site plan required to be submitted by the requirements of this chapter shall include the following elements, where applicable:

- (1) Statements of ownership and control of the proposed development.*
- (2) Statement describing in detail the character and intended use of the development.*
- (3) A site plan containing the title of the project and the names of the project planner and developer, date, and north arrow, and based on an exact survey of the property drawn to a scale of sufficient size to show:
 - (A) Boundaries of the project, any existing streets, buildings, water courses, easements, and section lines.*
 - (B) Exact location of all buildings and structures.*
 - (C) Access and traffic flow and how vehicular traffic will be separated from pedestrian and other types of traffic.*
 - (D) Off-street parking and off-street loading areas.*
 - (E) Recreation facilities, locations.*
 - (F) All screening and buffers.*
 - (G) Refuse collection areas.*
 - (H) Access to utilities and points of utility hookups.**
- (4) Tabulations of total gross acreage in the project and the percentages thereof proposed to be devoted to:
 - (A) The various permitted uses.*
 - (B) Ground coverage by structures.*
 - (C) Impervious surface coverage.**
- (5) Tabulations showing:
 - (A) The derivation of numbers of off-street parking and loading spaces shown in subsection (11)(b)4 of this section.*
 - (B) Total project density in dwelling units per net acre.**
- (6) Architectural definitions for buildings in the development; exact number of dwelling units, sizes, and types, together with typical floor plans of each type.*
- (7) Storm drainage and sanitary sewage plans.*
- (8) If common facilities, such as recreation areas or structures, common open space, etc., are to be provided for the development, statements as to how such common facilities are to be provided and permanently maintained. Such statements may take the form of proposed deed restrictions, deeds of trust, homeowners' associations, surety arrangements, or other legal instruments providing adequate guarantee to the city that such common facilities will not become a future liability for the city.*
- (9) Plans for signs, if any.*
- (10) Landscaping plan, including types, sizes, and locations of vegetation and decorative shrubbery, and showing provisions for maintenance.*
- (11) In the industrial districts, plans for the exterior walls of all buildings,*

lighting, outside storage, and industrial processes and materials pertinent to conformance with the industrial performance standards in this section.

- (12) Such additional data, maps, plans, or statements as may be required for the particular use or activity involved or as the applicant may believe is pertinent.*

12. Placement of structures.

- a. No dwelling shall be erected, placed, or built within any district unless the structure has a minimum width of 22 feet for at least 70 percent of the structure's length and has a perimeter frost barrier footing.*
- b. No dwelling built prior to June 15, 1976, shall be relocated to any residential lot within the city except to an approved mobile home lot. Dwellings built after June 15, 1976, must have proof of compliance with applicable department of housing and urban development (HUD) codes and bear the HUD seal of compliance in order to be eligible for a moving permit. Proof of compliance must be provided by the applicant to the city plan commission along with a site plan for commission concurrence prior to the issuance of a moving permit.*
- c. No nondwelling structure exceeding 170 square feet in ground area, which has its place of origin off premises, shall be relocated onto any residentially zoned lot, unless the structure complies with current city building regulations and that a bond or irrevocable cashier's check be received by the city for 100 percent of the market replacement value of the structure. The bond or cashier's check shall be returned upon final inspection of the structure finding compliance with all applicable building codes and zoning ordinances. If 60 days after issuance of a permit for the moving of the structure, the structure fails to comply with the building codes and zoning ordinances, then in addition to any compliance action taken by the building inspector, the bond or cashier's check shall be retained and may be applied to the costs of effecting compliance and to any forfeiture, court costs, and cost of prosecution imposed by the court.*

13. Telecommunications antennas and towers.

- a. Purpose. The purpose of this subsection is to establish general guidelines for the siting of towers and antennas. The goals of this subsection are to:*
 - (1) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community;*
 - (2) Strongly encourage the joint use of new and existing tower sites;*
 - (3) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;*
 - (4) Minimize the adverse visual impact of the towers and antennas;*
 - (5) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; and*

- (6) *Protect the public health, safety and general welfare of the city.*
- b. *Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:*

Antennas means any exterior apparatus designed for telecommunications, radio or pager services through the sending or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunication signals, including, but not limited to, directional antennas, such as panels, microwaves and satellite dishes, and omni-directional antennas, such as whip antennas.

Antenna support structures means any building, pole, telescoping mast, tower, tripod or any other structure which supports an antenna.

Co-location means the location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height refers to the distance measured from ground level to the highest point on the tower or other structure, even if the highest point is an antenna.

Personal communication services (PCS) means a provider of personal wireless service facilities as defined by federal law.

Personal wireless facilities means transmitters, antenna structures, and other types of installations used to provide personal wireless services.

Pre-existing towers and antennas means any legally placed tower or antenna permitted prior to the effective date of the ordinance from which this section is derived that shall not be required to meet the requirements of this section other than applicable federal or state requirements or city building codes.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers or monopole towers. The term "tower" includes personal communication service towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like. The term "guy towers" are towers supported externally by a set or series of wires from the tower to the ground.

Tower site means the area encompassing a tower and all supporting

equipment, structures paved or graveled areas, fencing and other items used in connection with the tower.

Wireless telecommunications services means licensed commercial wireless telecommunication services, including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhances specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

c. Special exception required. A special exception permit in accordance with section 17.47 shall be required for the locating and construction of a new tower or for the co-location of an antenna on an existing tower not previously granted a special exception.

(1) No special exception shall be granted for the placement of a tower in any residential zone or area zoned conservancy.

(2) Antennas not exceeding 30 feet in antenna height may be placed on existing structures that have an existing height greater than 45 feet, irrespective of the zoning district.

(3) No special exception for a tower site exceeding 30 feet in height shall be granted within 2,500 feet of an existing tower site whether the existing site is within or without the city.

(4) If a special exception permit is granted, the city council may impose conditions to the extent the city council concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

(5) Any information of an engineering nature required by the special exception that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

(6) Private HAM radio operators and citizen band radio operators, along with their associated towers and apparatus, licensed under applicable FCC regulations, shall be exempt from the provisions of this section, provided that the facilities are situated on the same lot as the transmitter/receiver set.

d. Information required. Each applicant requesting a special exception permit under this section shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the city council to be necessary to assess compliance with this section, including, but not limited to, the provision of co-location per subsection 17.32(12)(f).

e. Considered in granting special exception permits. The city council shall consider the following factors in determining whether to issue a special

exception permit, although the city council may waive or reduce the burden on the applicant of one or more of these criteria if the city council concludes that the goals of this section are better served thereby:

- (1) Height of the proposed tower.*
- (2) Capacity of the tower structure for additional antenna equipment to accommodate expansion, or to allow for co-location of another provider's equipment.*
- (3) Proximity of the tower to residential structures and residential district boundaries.*
- (4) Nature of uses on adjacent and nearby properties.*
- (5) Surrounding topography.*
- (6) Surrounding tree coverage and foliage.*
- (7) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.*
- (8) Proposed ingress and egress to the tower site.*
- (9) Availability of suitable existing towers and other structures as discussed in section 17.32(13)(f).*
- (10) Compliance with current FAA and FCC regulations so as to, in part, minimize the possibility of interference with locally received transmissions.*

f. Co-location.

- (1) Any proposed telecommunication tower and tower site shall be designed, structurally, electrically, and in all other respects to accommodate co-location of both the applicant's antennas and comparable antennas for at least two additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower; to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.*
- (2) The holder of a permit for a tower shall allow co-location for at least two additional users and shall not make access to the tower and tower site for the additional users economically unfeasible. If additional users demonstrate (through independent arbitration or other pertinent means) that the holder of a tower permit has made access to such tower and tower site economically unfeasible, the original permit on the tower site shall become null and void.*
- (3) No new tower shall be permitted unless the applicant demonstrates, to the reasonable satisfaction of the city council, that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:*
 - (A) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.*
 - (B) Existing towers or structures are not of sufficient height to*

- meet the applicant's engineering requirements.*
- (C) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.*
 - (D) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.*
 - (E) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.*
 - (F) The fees, costs or contractual provisions required by the owner to share an existing tower or structure or to adapt an existing tower.*
- g. Setbacks and separation. The following setbacks and separation requirements shall apply to all towers and antennas for which a special exception permit is required; provided, however, that the city council may reduce the standard setbacks and separation requirements if the goals of this subsection would be better served thereby.*
- (1) Towers must be set back a distance equal to the height of the tower from any off-site residential structure.*
 - (2) Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.*
- h. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special exception permit is required; provided however, that the city council may waive such requirements if the goals of this subsection would be better served thereby.*
- (1) Tower sites shall be landscaped with a mixture of deciduous and evergreen trees and shrubs that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.*
 - (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.*
 - (3) Existing mature trees growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such towers sited on large wooded lots, natural growth around the property perimeter may be a sufficient buffer.*
- i. Removal of abandoned antennas and towers. Any antenna or tower that is not operated for a continuous period of six months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the city council notifying the owner of such abandonment. If such antenna or tower is not removed within the 90 days, the city council may remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this section shall*

not become effective until all users cease using the tower.

j. Applicability.

- (1) District height limitation. The requirements set forth in this subsection shall govern the location of towers that exceed, and antennas that are installed, at a height in excess of the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas, however, in no case shall any tower, excluding antennas, exceed a height of 220 feet.*
- (2) Inventory of existing sites. Each applicant for an antenna and or tower shall provide to the planning department an inventory of all existing towers that are within a five-mile radius of the proposed site, on which the company is also located, leased or owned, including specific information about the location, height and design of each tower that applies. The city plan department may share such information with other applicants applying for special exception permits under this article or other organizations seeking to locate antennas within the jurisdiction of the city council; provided, however, that the planning and zoning department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.*

14. Small wind energy system ordinance.

- a. Authority. This section is adopted pursuant to authority granted by Wis. Stats. §§ 62.23(7) and 66.0401.*
- b. Purpose. The purpose of this section is to:*
 - (1) Oversee the permitting of small wind energy systems.*
 - (2) Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system (per Wis. Stats. § 66.0401).*
- c. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:*

Administrator means the city building inspector.

Common council means the city common council.

Meteorological tower (met tower) is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

Owner means the individual or entity that intends to own and operate the small wind energy system in accordance with this section.

Rotor diameter means the cross-sectional dimension of the circle swept by the rotating blades.

Small wind energy system means a wind energy system that:

- (1) Is used to generate electricity;*
- (2) Has a nameplate capacity of 100 kilowatts or less; and*
- (3) Has a total height of 170 feet or less.*

Total height means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

Tower means the monopole, freestanding, or guyed structure that supports a wind generator.

Wind energy system means the equipment that converts and then stores or transfers energy from the wind into usable forms of energy, as defined by Wis. Stats. § 66.0403(1)(m). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other component used in the system.

Wind generator means blades and associated mechanical and electrical conversion components mounted on top of the tower.

d. Standards. A small wind energy system shall be a conditionally permitted use in all zoning districts subject to the following requirements:

- (1) Setbacks. A wind tower for a small wind energy system shall be set back a distance equal to its total height from:*
 - (A) Any public road right-of-way, unless permission is granted by the governmental entity with jurisdiction over the road. Such permission shall be in a form acceptable for recording in the county register of deeds office for the parcel on which the tower is located.*
 - (B) Any overhead utility lines, unless permission is granted by the affected utility, such permission shall be in a form acceptable for recording in the county register of deeds office for the parcel on which the tower is located.*
 - (C) All property lines, unless permission is granted from the affected landowner or neighbor, such permission shall be in a form acceptable for recording in the county register of deeds office for both the parcel on which the tower is located and the affected parcel.*

(2) Access.

- (A) All ground-mounted electrical and control equipment shall be*

labeled and secured to prevent unauthorized access.

(B) The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.

- (3) Electrical wires. All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.*
- (4) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.*
- (5) Appearance, color, and finish. The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer; unless otherwise approved in the building permit.*
- (6) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.*
- (7) Code compliance. A small wind energy system, including tower, shall comply with all applicable state construction and electrical codes, and the National Electrical Code.*
- (8) Utility notification and interconnection. Small wind energy systems that connect to the electric utility shall comply with the public service commission of Wis. Admin. Code ch. PSC 119, "rules for interconnecting distributed generation facilities."*
- (9) Met towers. Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.*

e. Permit requirements.

- (1) Building permit. A building permit shall be required for the installation of a small wind energy system.*
- (2) Documents. The building permit application shall be accompanied by a lot plan which includes the following:*
 - (A) Property lines and physical dimensions of the property.*
 - (B) Location, dimensions, and types of existing major structures on the property.*
 - (C) Location of the proposed wind system tower.*
 - (D) The right-of-way of any public road that is contiguous with the property.*
 - (E) Any overhead utility lines.*
 - (F) Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding*

or guyed).

(G) Tower foundation blueprints or drawings stamped by a design professional.

(H) Tower blueprint or drawing stamped by a design professional.

(I) The property lines and dimensions, with the names and addresses of the owners, of any properties proposed to be restricted from activities interfering with the system.

(3) Fees. The same fee required for a building permit for a permitted accessory use must accompany the application for a building permit for a small wind energy system.

(4) Expiration. A permit issued pursuant to this section shall expire if the small wind energy system is not installed and functioning within two years from the date the permit is issued.

f. Abandonment.

(1) A small wind energy system that is out-of-service for a continuous two-year period, excluding time spent on repairs or improvements, will be deemed abandoned. The administrator may issue a notice of abandonment to the owner of a small wind energy system that is deemed abandoned. The owner shall have the right to respond to the notice of abandonment within 30 days from the notice receipt date. The administrator shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.

(2) If it is determined the small wind energy system is abandoned, the owner of same shall remove the wind generator from the tower at the owner's sole expense within three months of receipt of notice of abandonment. If the owner fails to remove the wind generator from the tower, the administrator may pursue a legal action to have the wind generator removed at the owner's expense and such expense shall be entered as a special charge on the tax roll.

g. Building permit procedure.

(1) An owner shall submit an application to the administrator for a building permit for a small wind energy system. The application must be on a form approved by the administrator and must be accompanied by two copies of the lot plan identified above.

(2) Within 30 days of receipt of an application, the administrator shall determine whether the application is satisfactorily completed and, if no other properties are to be restricted by the permit, place the application on the agenda before the city plan commission. If the application identifies other properties to be restricted by the permit, the applicant shall provide notice to the owners of those properties personally or by certified mail; and provide receipts for the delivery of

such notice to the administrator. The administrator shall provide the notice form. The hearing before the city plan commission shall, in such cases, be scheduled in compliance with the timelines of Wis. Stats. § 66.0403(3) and (4). The plan commission shall approve or deny the application based on the criteria as provided within this Code.

(3) If the application is approved, the administrator will return one signed copy of the application with the permit and retain the other copy with the application.

(4) If the application is rejected, the administrator will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the administrator's decision pursuant to Wis. Stats. ch. 68. The applicant may re-apply if the deficiencies specified by the administrator are resolved.

(5) The owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the small wind energy system is complete.

h. Violations. It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with the ordinance from which this section is derived or with any condition contained in a building permit issued pursuant to this section. Small wind energy systems installed and operated prior to the adoption of this section are exempt.

i. Administration and enforcement.

(1) The administrator or other designated official shall administer this section.

(2) The administrator may enter any property for which a building permit has been issued under this section to conduct an inspection to determine whether the conditions stated in the permit have been met.

(3) The administrator may issue orders to abate any violation of this section.

(4) The administrator may issue a citation for any violation of this section.

(5) The administrator may refer any violation of this section to legal counsel for enforcement.

j. Penalties.

(1) Any person who fails to comply with any provision of this section or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as provided in section 17.56.

(2) Nothing in this section shall be construed to prevent the common council from using any other lawful means to enforce this section.

(Code 2011, § 17.32)

PASSED AND ADOPTED BY THE CITY OF KAUKAUNA COMMON COUNCIL

_____.

Presiding Officer

Attest

Anthony J. Penterman, Mayor, City of
Kaukauna

Sally Kenney, Clerk, City of
Kaukauna