

Chapter 525

ZONING

[HISTORY: Adopted by the Town Board of the Town of Buchanan 11-4-1997 as Ch. 63 of the 1997 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Plan Commission — See Ch. 114.
Adult entertainment — See Ch. 185.
Building construction — See Ch. 225.
Impact fees — See Ch. 330.
Mobile home parks — See Ch. 383.
Noise — See Ch. 400.
Subdivision of land — See Ch. 460.
Towers and antennas — see Ch. 478.
Abandoned and junked vehicles — See Ch. 492.
Wind energy facilities — See Ch. 513.

ARTICLE I Introduction

§ 525-1. Statutory authority.

This chapter is established pursuant to the provisions of § 60.62, Wis. Stats., and shall be known as "the Town of Buchanan Zoning Ordinance."

§ 525-2. Purpose.

It is the purpose of this chapter to promote the public health, safety, convenience and general welfare; to protect property values and the property tax base; to permit the careful planning and efficient maintenance of highway systems; to ensure adequate highway, utility, health, educational and recreational facilities; to recognize the needs of agriculture, forestry, industry and business in future growth; to encourage uses of land and other natural resources which are in accordance with their character and adaptability; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to encourage the protection of groundwater resources; to preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of landscape and man-made developments; to provide healthy surroundings for family life; and to promote the efficient and economical use of public lands.

§ 525-3. Applicability and extent of power.

This chapter is designed to determine, establish, regulate and restrict:

- A. The areas within which agriculture, forestry, industry, mining, trades, business and recreation may be conducted.
- B. The areas in which residential uses may be regulated or prohibited.

- C. The areas in or along natural watercourses, channels, streams and creeks in which trades or industries, filling or dumping, erection of structures and the location of buildings may be prohibited or restricted.
- D. Trailer camps or tourist camps and motels, or both, and mobile home parks.
- E. Designate certain areas, uses or purposes which may be subjected to special regulation.
- F. The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.
- G. The location, height, bulk, number of stories and size of buildings and other structures.
- H. The location of roads and schools.
- I. Building setback lines.
- J. The density and distribution of population.
- K. The percentage of lot which may be occupied, size of yards, courts and other open spaces.
- L. Places, structures or objects with a special character, historic interest, aesthetic interest or other significant value, historic landmarks and historic districts.
- M. Burial sites, as defined in § 157.70(1)(b), Wis. Stats.

ARTICLE II
General Provisions

§ 525-4. Establishment of districts.

To achieve the purposes of this chapter, the Town is hereby divided into the following districts as set forth in Article V of this chapter.

- AED Exclusive Agricultural District
- AGD General Agricultural District
- RSF Single-Family Residential District
- RTF Two-Family Residential District
- RMF Multifamily Residential District
- CL Local Commercial District
- CR Regional Commercial District
- CP Planned Commercial District
- IND Industrial District

§ 525-5. Official Zoning Atlas.

- A. Establishment. The location and boundaries of the districts shall be as shown in a map atlas entitled "the Official Zoning Atlas of Town of Buchanan, Outagamie County, Wisconsin." The district symbol as set out in § 525-4 above and Article V of this chapter shall be used to designate each district. The Official Zoning Atlas with all notations, dimensions, designations, references and other data shown shall accompany and be part of this chapter, and upon adoption by the Town of Buchanan Board, each map page shall be signed by the Town Chairperson and attested by the Town Administrator/Clerk, bearing the date of adoption.
- B. Amendments. Amendments to the Official Zoning Atlas shall be approved by the Outagamie County Board of Supervisors in accordance with the provisions of this chapter and § 60.62, Wis. Stats. Amendments shall be effective as provided in § 60.62, Wis. Stats. Amendments shall promptly be portrayed on the appropriate map page and include the ordinance number and effective date of the amendment.
- C. Final authority as to zoning status. Regardless of the existence of purported copies of all or part of the Official Zoning Atlas which may from time to time be made or published, the Official Zoning Atlas, which shall be located in the Administrator/Clerk's office, shall be the final authority as to the current zoning status of any lands.
- D. Replacement of Official Zoning Atlas. If the Official Zoning Atlas, or any page or portion thereof, becomes damaged, lost, destroyed or difficult to interpret, the Town Board may by resolution adopt a new Official Zoning Atlas or any page or pages thereof, which shall supersede the prior Official Zoning Atlas, or page or pages thereof. The new Official Zoning Atlas, or page or pages thereof, may correct drafting or other errors or omissions, but no such correction shall have the effect of amending the original Official Zoning Atlas or page or pages thereof. If, in the process of correcting drafting or other errors or omissions, district boundaries are changed or altered, then action shall be taken only in the form of an amendment.
- E. Retention of earlier maps. All zoning maps which have had the force and effect of official zoning maps for the Town of Buchanan prior to the effective date of adoption of this chapter shall be retained as a public record and as a guide to the zoning status of lands prior to such date.

§ 525-6. Interpretation of district boundaries.

- A. Except as otherwise specifically provided, a district symbol or name shown within district boundaries on the Official Zoning Atlas indicates that the district regulations pertaining to the district extend throughout the whole area surrounded by the boundary line.
- B. Where uncertainty exists as to the boundaries of districts shown on the Official Zoning Atlas, the following rules apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, alleys or rights-of-way shall be construed as following such center lines as they exist on the ground.
- (2) Boundaries indicated as approximately following lot lines shall be construed as following such lines; provided, however, that where such boundaries are adjacent to the dedicated street, highway or right-of-way and the zoning status of the street, highway or right-of-way is not indicated, the boundaries shall be construed as running to the middle of the street, highway or right-of-way.
- (3) Boundaries indicated as approximately following the limits of incorporated municipalities shall be construed as following such limits.
- (4) Boundaries indicated as following railroad tracks shall be construed as being midway between the main tracks.
- (5) Where boundaries do not follow property lines and distances are not specified, boundaries shall be determined by the use of the scale on the Official Zoning Atlas.
- (6) Where the property layout existing on the ground is at variance with that shown in the Official Zoning Atlas, the Zoning Administrator shall interpret the Official Zoning Atlas. The determination by the Zoning Administrator may be appealed as provided in § 525-92.

§ 525-7. Application of regulations.

The regulations set by this chapter shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- A. No land, building or structure shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No sign shall hereafter be erected, hung, placed, painted, altered, or moved except in conformity with the regulations of the district in which it is located.
- C. No part of a yard, open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, off-street parking or loading space similarly required for any other building.
- D. No lot or yard existing at the effective date of adoption of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Lots or yards created after the effective date of adoption of this chapter shall meet the minimum requirements established by this chapter.
- E. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced. No accessory building shall be used unless

the principal building on the lot is also being used. No cellar or basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is part.

§ 525-8. Interpretation. [Amended 8-17-2010 by Ord. No. 2010-03]

In their interpretation and application, the provisions of this chapter shall be considered minimum requirements, except where a maximum requirement is noted. Where the provisions of this chapter impose greater restrictions than any statutes, other regulations, ordinances or covenants, the provisions of this chapter shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this chapter, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

§ 525-9. Other regulations applicable to development and use of land and structures. [Amended 8-17-2010 by Ord. No. 2010-03]

In addition to the applicability of this chapter, certain lands and structures in the Town of Buchanan are also subject to, without limitation, regulations pertaining to floodplains, subdivisions, erosion control, stormwater management, shorelands and wetlands.

ARTICLE III
Definition of Terms

§ 525-10. Word usage.

For the purpose of this chapter, the following shall apply as indicated throughout the chapter:

- A. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- B. The present tense includes the future tense, and the singular includes the plural.
- C. The word "shall" is mandatory; the word "may" is permissive.
- D. The words "used" or "occupied" also mean "intended, designed or arranged to be used or occupied."

§ 525-11. Definition of terms.

For the purpose of this chapter, the following terms are defined as follows:

ACCESSORY USE OR STRUCTURE — A use or structure on the same lot with the principal use or structure and of a nature customarily incidental and subordinate to the principal structure.

AIRPORT (PUBLIC) — Any airport which complies with the definition contained in Ch. 114, Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.

ALLEY — A public or approved private way which affords only a secondary means of

access to abutting property.

ALTERATION — A change or rearrangement in the structural parts of a structure, an enlargement of a structure, whether by extending on the side or by increasing the height, or the movement of a structure from one location to another.

AUTOMOBILE FILLING STATION — Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories and convenience retail goods may be supplied, dispensed and sold and where minor repair or maintenance work may be performed, such as ignition service, tire repair, repair and replacement of minor parts such as pumps and filters and the like. A filling station is not a repair or body shop.

AUTOMOBILE SALVAGE YARD — Premises used for the storing, dismantling, crushing, shredding or disassembly of used motor vehicles or their parts.¹

BOARDINGHOUSE — An establishment where meals and lodging are provided for compensation by prearrangement other than in dwelling units, without limitation on time periods involved, and for a total of at least four or more boarders.

BUILDING — A structure having one or more stories and a roof which is used or intended to be used for shelter or enclosure for persons, property or animals.

BUILDING FRONTAGE — The front of a building shall be construed to be the portion facing a street. For purposes of computation of the number and area of signs, the frontage of a building shall be computed as nearly at ground level as computation of horizontal distance permits. In cases where this test is indeterminate or cannot be applied, as for instance where there is a diagonal corner entrance, the Zoning Administrator or Building Inspector shall select building frontage on the basis of interior layout of the building, traffic on adjacent streets or other indicators.

BUILDING HEIGHT — A building's vertical measurement, from the main level of the finished grade in front of the building to the highest point on the roofline of a flat roof or a roof having a pitch ratio of less than 1.4 from the horizontal, and to a point midway between the peak and the eaves of a roof having a pitch ratio of more than 1.4.

BUILDING LINE — The rear edge of any required front yard or the rear edge of any required setback line.

BUILDING SITE — The lot or lots or portion of a lot or lots used for a building, the total area of which lots is ascribed to the building for compliance with these zoning regulations.

CLINIC — An office or group of offices relating to the health care professions, including physicians, dentists and the like engaged in the treatment of persons.

COMMON OPEN SPACE — A parcel or parcels of land or an area of water or combination of land and water designated and intended for either the recreational use and enjoyment of residents of the development for which it was established and for the

¹. Editor's Note: The definition of "billboard" which immediately followed this definition was repealed 8-17-2010 by Ord. No. 2010-03. See now Art. VII, Signs, § 525-42.

general public or for the exclusive recreational use and enjoyment of residents of the development for which it was established. No yard required in connection with any principal use or structure shall be designated or intended for use as common open space.

COMMUNITY LIVING ARRANGEMENT — Facilities defined in § 46.03, Wis. Stats.

CONVALESCENT HOME and NURSING HOME — A place where regular care is provided to three or more infirm persons, children or aged persons who are not members of the family which resides on the premises.

COUNTY — Outagamie County, Wisconsin.

DAY CARE

A. FAMILY — A place where regular day care is provided to not more than eight children and is licensed pursuant to Ch. 48, Wis. Stats.

B. GROUP — A place where regular day care is provided to nine or more children and is licensed pursuant to Ch. 48, Wis. Stats

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to construction or additions or substantial improvements to buildings, other structures or accessory uses, mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations, and deposition of materials.

DRIVE-IN RESTAURANT — Any establishment dispensing or serving food in automobiles, including those establishments where customers serve themselves and may eat or drink in the building or in their automobiles on the premises.

DWELLING, MULTIFAMILY — A building containing three or more dwelling units. The term "multifamily dwelling" shall include cooperative apartments, condominiums, apartments and the like. Regardless of how rental units are equipped, any multifamily dwelling in which units are available for rental periods of less than one week shall be considered a motel.

DWELLING, SINGLE-FAMILY ATTACHED — A building containing not more than one dwelling unit attached at the side or sides in a series or a group of three or more buildings, each containing not more than one dwelling unit. Each building shall be separated from the adjoining building or buildings by a party wall or walls extending from footings through roofs. The term "attached dwelling" is intended to imply townhouses, patio or atrium houses or any form which conforms to this definition.

DWELLING, SINGLE-FAMILY DETACHED — A building containing not more than one dwelling unit, entirely separate from structures on adjacent lots. The term "detached dwelling" shall not include mobile homes, travel trailers, or other forms of portable or temporary housing but shall include manufactured homes. All single-family dwellings shall:

A. Contain not less than 1,200 square feet of living area.

B. Be covered by a roof pitched at a minimum slope of five inches in 12 inches which is permanently covered with nonreflective material.

- C. Have overhanging eaves of not less than 18 inches.
- D. Be a minimum of 25 feet in width. Attached garages, carports and open decks shall not be included in the measurement of the width.

DWELLING, TWO-FAMILY — One building containing not more than two dwelling units or two buildings, attached at the side, with not more than one dwelling unit per building. The term "two-family dwelling" is intended to imply single-family semidetached buildings and duplexes or any form which conforms to this definition.

DWELLING UNIT — A room or rooms connected together, constituting a separate, independent housekeeping establishment for one family only, for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities.

FAIR MARKET VALUE — Assessed value adjusted for equalized value.

FAMILY — One or more persons living together in a single dwelling unit as a traditional family or the functional equivalent of a traditional family. It shall be a rebuttable presumption that four or more persons living together in a single dwelling unit who are not related by blood, adoption or marriage do not constitute the functional equivalent of a traditional family. In determining the functional equivalent of a traditional family, the following criteria shall be present: [Amended 8-17-2010 by Ord. No. 2010-03]

- A. The group shares the entire dwelling unit.
- B. The group lives and cooks together as a single housekeeping unit.
- C. The group shares expenses for food, rent, utilities or other household expenses.
- D. The group is permanent and stable and not transient or temporary in nature.
- E. Any other factor reasonably related to whether the group is the functional equivalent of a family.

FLOOR AREA — The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, excluding public corridors, common rest rooms, attic area, unenclosed stairways, elevator structures, heating or other building machinery or equipment, or basement space.

FLOOR AREA RATIO — The ratio of the total floor area of a building to the total lot area.

FUR FARM — Land, buildings or structures used for the purpose of raising or harboring fur-bearing animals including those defined in § 29.001, Wis. Stats., and also including chinchillas, whether the animals are kept for breeding, slaughtering or petting.

GARAGE, PRIVATE — An accessory building designed or used for inside parking of not more than three private motor vehicles, recreational vehicles or boats by the occupant of the principal building. A private garage attached to or a part of the main building is to

be considered part of the main building.

GARAGE, STORAGE — An accessory building designed or used for the storage of more than three motor vehicles, recreational vehicles or boats.²

HOTEL — An establishment where sleeping accommodations are offered to the public and intended primarily for rental to transients, with daily charge, as distinguished from multifamily dwellings and boardinghouses where rentals are for periods of a week or longer and occupancy is generally by residents rather than transients. Hotels may serve meals to both occupants and others. The term "hotel" is also intended to imply motel, motor court, motor lodge, tourist court or any form which conforms to this definition.

JUNKYARD — Premises or land, buildings or structures where junk, waste, discarded, salvaged or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, cordage, barrels, containers, etc., are brought, bought, sold, exchanged, baled, packed, stored or handled, including used lumber and building materials, equipment, wrecking yards and the like. This definition shall not include automobile salvage or wrecking yards or pawnshops and establishments for the sale, storage or purchase of secondhand vehicles, clothing, furniture, appliances or similar household goods, all of which shall be usable, nor shall it apply to the processing of used, discarded or salvageable materials incident to manufacturing activity on the same site. [Amended 8-17-2010 by Ord. No. 2010-03]

KENNEL AND PET SHOP — Any establishment for the raising, training, boarding or selling of dogs, cats, birds, mice, rats or other small animals, for hire or profit, or where more than three dogs, cats or other small animals are harbored or kept. [Amended 8-17-2010 by Ord. No. 2010-03]

LANDSCAPING — Landscaping shall consist of, but not be limited to, grass, ground covers, shrubs, vines, hedges, trees, berms and complementary structural landscape architectural features, such as rock, fountains, sculpture, decorative walls and tree wells.

LOT — A parcel of land used or set aside and available for use as the site for one or more buildings and buildings accessory thereto or for any other purpose, in one ownership and not divided by a street nor including any land within the limits of a public or private street right-of-way. The term "record lot" shall mean land designated as a distinct and separate parcel on a legally recorded deed or plat in the Register of Deeds office.

LOT AREA — The total horizontal area within the lot lines of the lot.

LOT COVERAGE — The percentage of the lot area covered by the principal structure.

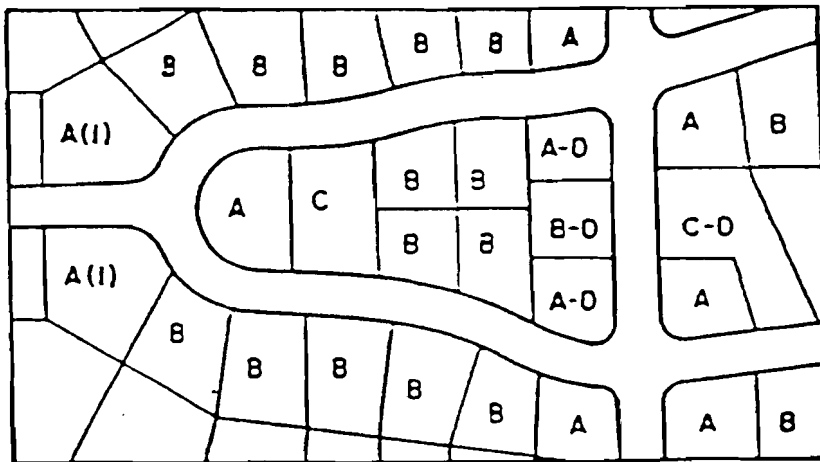
LOT DEPTH — Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost point of the side lot lines in the rear.

LOT FRONTAGE — The front of an interior lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and

2. Editor's Note: The definition of "home occupation" which immediately followed this definition was repealed 8-17-2010 by Ord. No. 2010-03. See now § 525-40.

through lots, all sides of a lot adjacent to a street shall be considered frontage, and yards shall be provided as set out in these zoning regulations. For the purpose of computing number and area of signs, frontage of a lot shall be established by orientation of the frontage of buildings thereon or of principal entrance points to the premises if building frontage does not clearly indicate lot frontage. If neither of these methods are determinant, the Building Inspector shall select on the basis of traffic flow on adjacent streets, and the lot shall be considered to front on the street with the greater flow.

LOT TYPES — The diagram which follows illustrates the terminology used in this chapter with reference to corner lots, interior lots, reversed frontage lots and through lots.



A = corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than 135°. See lots A(1) in the diagram.

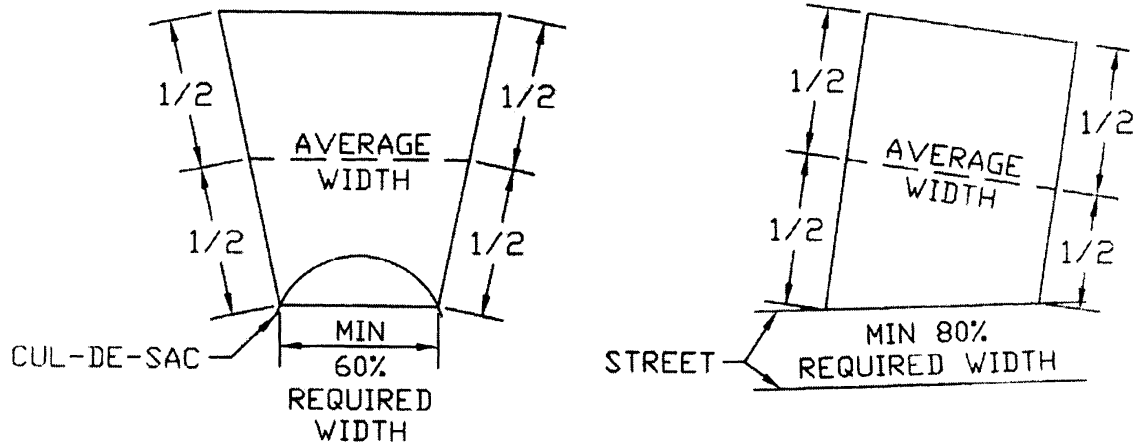
B = interior lot, defined as a lot other than a corner lot with only one frontage on a street.

C = through lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

D = reversed frontage lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135°) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), and interior lot (B-D) or a through lot (C-D).

LOT WIDTH — Width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with street line) and the rearmost points of the side lot lines in the rear; provided, however, that the width between the side lot lines at their foremost points in the front shall not be less than 80% of the required lot width except in the case of lots on the

turning circle of a cul-de-sac, where the width shall not be less than 60% of the required lot width.



MANUFACTURED HOME — A structure certified and labeled as a manufactured home under 42 U.S.C. §§ 5401 to 5426, which, when placed on the site:

- A. Is set on an enclosed continuous foundation in accordance with § 70.43(1), Wis. Stats., and Ch. Comm 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
- B. Is installed in accordance with the manufacturer's instructions.
- C. Is properly connected to utilities;
- D. Is without any hitch, wheel or axle; and
- E. Meets other applicable standards of this chapter.

MOBILE HOME — A vehicle manufactured or assembled prior to June 15, 1976, designed to be towed as a single unit or in sections on a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes a structure which has been certified and labeled as a manufactured home under 42 U.S.C. §§ 5401 to 5426, or which has been certified and labeled as a manufactured home under §§ 101.91 to 101.96, Wis. Stats., and Ch. Comm 26, Wis. Adm. Code, if the structure:

- A. Is not set upon an enclosed permanent foundation upon land owned by the mobile home owner;
- B. Is on wheels;

- C. Is not properly connected to utilities;
- D. Has tow bars, wheels or axles attached to it; or
- E. Has not been installed in accordance with the manufacturer's instructions or a plan certified by a registered architect or engineer so as to ensure proper support for the structure.

NET ACRES — The total acreage of a lot, tract or parcel of land, excluding land in existing and proposed streets and street rights-of-way.

NET DENSITY — The term "net density" refers to the number of residential dwelling units permitted per net acre of land and is determined by dividing the number of units by the total area of land within the boundaries of a lot or parcel not including street rights-of-way. In the determination of the number of dwellings to be permitted on a specific parcel of land, a fractional unit shall not entitle the applicant to an additional unit.

OFFICE, BUSINESS — A business office is an office for such activities as real estate agencies, advertising agencies (but not sign shops), insurance agencies, travel agencies and ticket sales, chamber of commerce, credit bureau (but not finance company), abstract and title agencies or insurance companies, stockbrokers and the like. It is characteristic of a business office that retail or wholesale goods are not shown on the premises to a customer. A barber or beauty shop is not a business office.

OFFICE, PROFESSIONAL — A professional office is an office for the use of a person or persons generally classified as professionals, such as architects, engineers, attorneys, accountants, doctors, dentists, chiropractors, psychiatrists, psychologists and the like.

PLAN COMMISSION — The agency or commission designated by the Town Board pursuant to § 62.23 Wis. Stats.

PLANNED UNIT DEVELOPMENT — A residential land development comprehensively planned as an entity via a unitary plan which permits flexibility in building siting, mixtures of housing types, usable open spaces and the preservation of significant natural features.

RECREATIONAL CAMP — Premises and facilities used occasionally or periodically for the accommodation of members of groups or associations for outdoor recreational activities.

RURAL RESIDENTIAL DEVELOPMENT — Single-family residential development outside the current sewer service area and sewer service planning area.

SIGN — Any structure, part thereof, or device attached thereto or painted or represented thereon which displays or includes any numeral, letter, word, model, banner, emblem, device, trademark or other representation used as, or in the nature of, an announcement, advertisement, direction or designation of any person or thing in such a manner as to attract attention from outside of the building. See also Article VII, Signs.³ [Amended 8-17-

3. Editor's Note: The definitions of "sign, accessory," "sign area," "signs, number of" and "sign types," which immediately followed this definition, were repealed 8-17-2010 by Ord. No. 2010-03.

2010 by Ord. No. 2010-03]

SPECIAL EXCEPTION — Those uses or structures that may not be appropriate generally or without restriction throughout a district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, comfort, convenience or the general welfare, such uses or structures may be permitted in a zoning district if they meet the requirements of the district in which they are located and Article XIII.

STABLE — Premises where more than one horse (livestock) is boarded, raised, kept or retained regardless of whether such horses are (livestock is) owned by the occupants or owners of the premises. A stable shall provide not less than one acre of lot area per horse.

STABLE, RIDING — Premises on which horses are (livestock is) kept for the purpose of renting them to the public on any basis. A riding stable shall consist of not less than five acres.

STORAGE ESTABLISHMENT — Premises where goods and materials or more than three motor vehicles, recreational vehicles or boats are stored for a fee.

STORY — That portion of a building, other than a basement, that is between the surface of any floor and the surface of the next floor above it or, if there is not a floor above, then the space between such floor and the ceiling next above it.

STREET LINE — The dividing line between the street and the lot. The street line shall be the same as the legal right-of-way line.

STRUCTURE — Anything constructed or erected with a fixed location on the ground or attached to something with a fixed location on the ground. Among other things, structures include signs, fences, mobile homes and parking lots.

VARIANCE — A relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. Variances may be granted only if they meet the requirements of Article XIV of this chapter.

YARD — An open space other than a court on a lot, unoccupied and unobstructed from the ground upward; provided, however, that fences, walls, poles, posts, and other customary yard accessory ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility. "Required yard" means the minimum distances specified by this chapter measured from the property line.

YARD, FRONT — A yard extending across the front of a lot between the side lot lines, and extending from the street line to the nearest line of the principal structure or projection of the principal structure.

YARD, REAR — A yard extending across the rear of a lot between the side lot lines, and extending from the rear property line to the nearest line of the principal structure or projection of the principal structure.

YARD, SIDE — A yard extending between the nearest building or projection thereto and

the side lot line and extending from the front yard to the rear yard.

ARTICLE IV
Nonconformities

§ 525-12. Applicability and intent. [Amended 8-17-2010 by Ord. No. 2010-03]

Any use of land or structures or any lot or structure which lawfully existed at the effective date of adoption or amendment of this chapter which would not be permitted or permissible by the provisions of this chapter as adopted or amended shall be deemed nonconforming. It is the intent of this chapter to permit such nonconformities to continue, subject to certain restrictions.

§ 525-13. Nonconforming uses of land or land with minor structures only.

Where at the effective date of adoption or amendment of this chapter a use of land exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure or structures with a fair market value of less than \$10,000, such use may be continued subject to the following restrictions:

- A. Such use shall not be enlarged, increased, nor extended to occupy a greater area of the lot than was occupied at the effective date of adoption or amendment of this chapter.
- B. Such use shall not be moved in whole or part to any other portion of the lot other than the portion occupied by such use at the effective date of adoption or amendment of this chapter.
- C. When such use is discontinued or abandoned for a period of more than 12 consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
- D. No additional structure in connection with such use shall be erected.

§ 525-14. Nonconforming uses of structures.

Where at the effective date of adoption or amendment of this chapter the use of a structure exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure with a fair market value exceeding \$10,000, such use may be continued subject to the following restrictions:

- A. No existing structure devoted to a use not permitted or permissible shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted or permissible in the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of adoption or amendment of this chapter. Any nonconforming use which occupied a portion of a building not originally designed or intended for such use shall not be extended to any other part of the building. No nonconforming use shall be extended to occupy

any land outside the building nor any other building not used for such nonconforming use.

- C. There may be a change in tenancy, ownership or management of a nonconforming use, provided there is no change in the nature or character of such nonconforming use.
- D. When such use of a structure is discontinued or abandoned for a period of more than 12 consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
- E. If a structure occupied by a nonconforming use is removed or destroyed or damaged to an extent of more than 50% of its fair market value at the time of destruction, the nonconforming use shall not be resumed, except as provided in § 62.23(7)(hc), Wis. Stats. [Amended 8-17-2010 by Ord. No. 2010-03]

§ 525-15. Nonconforming structures.

Where at the effective date of adoption or amendment of this chapter a structure exists which could not be erected in the district in which it is located by reason of restriction on area or coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence subject to the following restrictions:

- A. Such structure shall not be altered in any manner which would increase the degree of nonconformity. The total structural repairs or alterations in such nonconforming structure shall not during its life exceed 50% of the fair market value of the structure.
- B. If such structure is destroyed or damaged to an extent of less than 50% of its replacement cost at the time of destruction, it may be reconstructed, provided reconstruction shall substantially reflect the prior structural arrangement and shall not increase the degree of nonconformity. If such structure is destroyed or damaged to an extent of more than 50% of its fair market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the district in which it is located, except as provided in § 62.23(7)(hc), Wis. Stats. [Amended 8-17-2010 by Ord. No. 2010-03]

§ 525-16. Nonconforming characteristics of use.

If characteristics of use such as lighting, parking, noise or other matters pertaining to the use of land, structures and premises are made nonconforming by the provisions of this chapter, as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase or which decrease such nonconformity.

§ 525-17. Nonconforming lots of record.

- A. In any district, any permitted or permissible structure may be erected on a single lot

of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width, or both, for the district in which it is located, provided such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership, and provided all other requirements for the district are met.

- B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of adoption or amendment of this chapter, the lands involved shall be considered to be an individual parcel for the purposes of this chapter, and no portion of such parcel shall be used, divided or sold which does not meet the lot area and lot width requirements for the district in which it is located.

§ 525-18. Casual, temporary or illegal use.

The casual, temporary or illegal use of land or structures, or land and structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.

§ 525-19. Repairs and maintenance.

Nothing in this chapter shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.

§ 525-20. Existing special exceptions.

Any use or structure existing on the effective date of adoption or amendment of this chapter which is classified as a special exception in the district in which it is located shall be deemed to have been granted approval, subject to maintaining the character and extent of such use or structure existing on that date. Any extension, enlargement or change in such use or structure shall require approval according to the terms of this chapter.

ARTICLE V
Schedule of District Regulations

§ 525-21. Interpretation and organization.

- A. District regulations shall be as set forth in this article and as modified and supplemented by Articles VI and IX.
- B. Permitted principal and accessory uses and structures listed for any district shall be permitted by right subject to the conditions as specified.
- C. Special exception uses and structures listed for any district are permissible only upon approval by the Town of Buchanan Plan Commission after notice and hearing subject to the conditions as specified and any other conditions as may be imposed by the Plan Commission to promote the general health, safety and welfare.
- D. In those instances where district regulations set forth a list of permitted or permissible uses followed by the phrase "and uses of a similar nature," it is

understood that the list of permitted or permissible uses is not exhaustive or all inclusive but that other uses of a like or similar nature are also permitted or permissible. Determination of whether a specific use, not enumerated, is of a like or similar nature shall be made by the Zoning Administrator. The determination by the Zoning Administrator may be appealed as provided in § 525-92.

- E. All uses and structures, dimensional, sign and off-street parking regulations shall be subject to Articles V, VI, VII and VIII.
- F. All uses and structures, as specified in the Schedule of District Regulations, shall be subject to the regulations and requirements for the use as provided in Article IX.

§ 525-22. AED Exclusive Agricultural District.

- A. Purpose. The intent of this district is to maintain highly productive agricultural lands in agricultural production by effectively limiting encroachment of nonagricultural development; by minimizing land use conflicts between agricultural and nonagricultural uses; and by minimizing public service and facility costs associated with nonagricultural development. This district is further intended to comply with standards contained in Ch. 91, Wis. Stats., to permit eligible landowners to receive tax credits under § 71.09, Wis. Stats., in connection with their agricultural operations.
- B. Permitted principal uses and structures:
 - (1) Agricultural uses, including beekeeping, commercial feedlots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, grass, mint and seed crops, raising of fruits, nuts, and berries, sod farming, placing land in federal programs in return for payments in kind, owning land at least 35 acres of which is enrolled in the conservation reserve program under 16 U.S.C. §§ 3831 to 3836, participating in the milk production termination program under 7 U.S.C. § 1446(d) and vegetable raising.
 - (2) Dwellings existing before the effective date of adoption of this chapter which are not necessary to or associated with agricultural uses.
 - (3) For purposes of farm consolidation, farm residences or structures which existed prior to the effective date of adoption of this chapter may be separated from the larger farm parcel.
 - (4) Kennels and pet shops. [Added 8-17-2010 by Ord. No. 2010-03]
- C. Permitted accessory uses and structures:
 - (1) Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures. Single-family dwellings shall be considered accessory to agricultural uses, provided such dwellings are occupied by a person or a family at least one member of which earns a substantial part of his or her livelihood from farming operations on the farm

parcel or is the parent or child of the farm operator. Accessory dwellings may be established on a separate parcel.

- (2) One roadside stand per farm used solely for the sale of products produced on the premises.⁴
- (3) Public utility installations.

D. Special exception uses and structures:

- (1) Fur farms.
- (2) Riding stables.
- (3) Sawmills.
- (4) Farm equipment and machinery sales and service.
- (5) Establishments for the processing, centralized bulk collection, storage or distribution of agricultural products.
- (6) Governmental uses, including landfills, highway storage facilities and public buildings.
- (7) Mobile homes.
- (8) Public and semipublic nonprofit institutional uses, including churches, schools, libraries, museums and the like.
- (9) Veterinary offices.

E. Dimensional requirements.

- (1) Principal agricultural uses and structures. Minimum lot area: 35 acres. There are no minimum lot width or yard requirements and no height limitations.
- (2) Preexisting dwellings and accessory dwellings on a separate parcel. Minimum lot area: 20,000 square feet; minimum lot width: 100 feet. Yards shall be a minimum of 25 feet in depth if at the front or rear and 15 feet in width if at the side. There are no height limitations.
- (3) Other permissible principal uses and structures. Minimum lot area: one acre; minimum lot width: 150 feet; minimum front and rear yard depth: 40 feet; and minimum lot area and yard requirements may be increased as a condition for a special exception permit.

§ 525-23. AGD General Agricultural District.

- A. Purpose. The intent of this district is to maintain open land areas predominantly devoted to farming and agricultural related uses. It is anticipated that while certain areas within this district will eventually be used for nonagricultural uses; the

⁴. Editor's Note: Original Sec. 63-05(2)(3)(c), which immediately followed this subsection and listed home occupations, was repealed 8-17-2010 by Ord. No. 2010-03.

intensity of development will remain significantly limited due to a lack of urban facilities and services. It is also intended that this district provide for small-scale family-oriented businesses on a case-by-case basis.

- B. Permitted principal uses and structures.
 - (1) Permitted principal uses and structures in § 525-22B(1) in the AED District.
 - (2) Public and semipublic nonprofit institutional uses of a similar nature.
 - (3) Parks, preserves and golf courses.
 - (4) Rural residential development, including single-family detached dwellings unrelated to any farm operations, as a principal use and structure on individual lots which are outside the current sewer service area and sewer service planning area and which are not part of a recorded subdivision plat as defined in the Town of Buchanan Subdivision Ordinance.⁵
- C. Permitted accessory uses and structures.
 - (1) Permitted accessory uses and structures in § 525-22C(1) through (3) in the AED District.
 - (2) Home occupations. [Added 8-17-2010 by Ord. No. 2010-03]
- D. Special exception uses and structures.
 - (1) Special exception uses and structures in § 525-22D(1) through (7) in the AED District; provided, however, that no such use or structure shall be located within 500 feet of an existing residential dwelling other than the owner's or within 500 feet of the exterior boundary of a recorded subdivision plat.
 - (2) Two-family dwellings, provided that the dimensional requirements of § 525-25 are met.
 - (3) Cemeteries.
 - (4) Veterinary offices.
 - (5) Warehouse, storage, and building supply establishments, subject to the conditions in Subsection D(1) above.
 - (6) Resource extraction uses, including quarrying and sand and gravel pits, subject to the requirements of § 525-62.
 - (7) Outdoor commercial recreational uses, including recreational camps, campgrounds, golf, archery and rifle ranges, sledding and skiing facilities and uses of a similar nature.
 - (8) Commercial exhibits of historical or natural significance.
 - (9) Automobile salvage yards, subject to the conditions in Subsection D(1) above,

5. Editor's Note: See Ch. 460, Subdivision of Land.

involving storage of less than 50 vehicles and where no crushing or processing of parts and materials is conducted on the premises, and provided all vehicles and parts are effectively screened from view from any residential lot or public highway.

- (10) Contractors' storage yard, provided all equipment and materials are effectively screened from view from any residential lot or public highway.
- (11) The following uses, provided the owner or proprietor resides on the premises: Automobiles, farm equipment and small engine repair shops; offices and/or shops in connection with skilled tradesmen, including plumbers, electricians, carpenters, welders and the like; and production and/or sales of crafts produced on the premises, provided mechanical or chemical processes are incidental or nonexistent.
- (12) Taverns existing before the effective date of adoption of this chapter.
- (13) Sales of lawn and garden equipment in connection with a plant nursery.
- (14) Airports, public or private.
- (15) Kennels and pet shops. [Amended 8-17-2010 by Ord. No. 2010-03]

E. Dimensional.

- (1) Principal agricultural uses. Minimum lot area: four acres; lot width: 200 feet; and front yard: 25 feet. There are no side or rear yard requirements and no height limitations on buildings or structures.
- (2) Rural residential single-family detached dwellings and mobile homes on individual lots. Minimum lot area: one acre; minimum frontage on existing or newly created public highway or road: 150 feet; lot width: 150 feet; front yard setback: minimum 30 feet; rear yard: 30 feet; side yards: 20 feet each.
- (3) Other permitted or permissible uses and structures. Minimum lot area: one acre; lot width: 150 feet; front yard: 25 feet; rear yard: 50 feet; side yards: 30 feet each; provided, however, that for any building or structure over 40 feet in height the side yards shall be increased by one foot for every two feet in additional height. Minimum lot area and yard requirements may be increased as a condition for a special exception permit.

§ 525-24. RSF Single-Family Residential District.

- A. Purpose. This district is intended to provide for single-family detached residential development. The density of development is based on the availability of public facilities and the extent of coordination and planning as indicated by whether the development is part of an approved and recorded subdivision plat.
- B. Permitted principal uses and structures:
 - (1) Single-family detached dwellings.

- (2) Public and semipublic nonprofit institutional uses, including churches, schools, libraries and the like, provided principal access shall be directly onto a collector or arterial street.
- (3) Parks, playgrounds, golf courses and community centers.
- (4) Community living arrangements, subject to the provisions and limitations of § 62.23(7)(i), Wis. Stats.
- (5) Day care (family).

C. Permitted accessory uses and structures:

- (1) Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
- (2) Temporary structures in connection with the construction of principal structures, provided such structures are not used for living purposes. Temporary structures shall not remain over 90 days after construction of the principal structure is substantially complete.
- (3) Home occupations.
- (4) Public utility installations.

D. Special exception uses and structures:

- (1) Convalescent homes and nursing homes.
- (2) Cemeteries.
- (3) Gardens, nurseries and orchards, provided no sales are conducted on the premises.⁶
- (4) Accessory dwelling subject to the provisions of § 525-61.
- (5) Bed-and-breakfast establishments, provided the owner resides on the premises.
- (6) Storage garage as an accessory building.
- (7) Day care (group).

E. Dimensional requirements.

- (1) Single-family detached dwellings.
 - (a) Within an approved and recorded subdivision plat served by public sewer, minimum dimensions are as follows: lot area: 10,000 square feet per dwelling; lot width: 90 feet; front yard: 25 feet; side yards: six feet each; rear yard: 25 feet; maximum lot coverage: 30%; maximum height: 35 feet (2 1/2 stories).

⁶. Editor's Note: Original Sec. 63-05(4)(4)(d), which immediately followed this subsection and listed cluster subdivisions, was repealed 8-17-2010 by Ord. No. 2010-03.

- (b) Not within an approved and recorded subdivision plat but served by public sewer, minimum dimensions are as follows: 9,000 square feet per dwelling; lot width: 75 feet; front yard: 25 feet; side yards: seven feet each; rear yard: 25 feet; maximum lot coverage: 20%; maximum height: 35 feet (2 1/2 stories).
 - (c) Within an approved and recorded subdivision plat not served by public sewer, minimum dimensions are as follows: lot area and lot width as provided in Ch. Comm 85, Wis. Adm. Code, but in no event shall lot area be less than 15,000 square feet and lot width be less than 90 feet; front yard: 25 feet; side yards: eight feet each; rear yard: 35 feet; maximum lot coverage: 15%; maximum height: 35 feet (2 1/2 stories).
 - (d) Not within an approved and recorded subdivision plat not served by public sewer, minimum dimensions as follows: lot area and lot width as provided in Ch. Comm 85, Wis. Adm. Code, but in no event shall lot area be less than 18,000 square feet and lot width be less than 100 feet; front yard: 25 feet; side yards: 10 feet each; rear yard: 40 feet; maximum lot coverage: 15%; maximum height: 35 feet (2 1/2 stories).
- (2) Other permitted or permissible uses and structures.
- (a) Served by public sewer, minimum dimensions are as follows: lot area: 10,000 square feet; lot width: 90 feet; front yard: 25 feet; side yards: 15 feet each; rear yard: 30 feet; maximum lot coverage: 20%; maximum height: 35 feet (2 1/2 stories).
 - (b) Not served by public sewer, minimum dimensions as follows: lot area: 18,000 square feet; lot width: 100 feet; front yard: 25 feet; side yards: 25 feet each; rear yard: 40 feet; maximum lot coverage: 15%; maximum height: 35 feet (2 1/2 stories).

§ 525-25. RTF Residential Two-Family District.

- A. Purpose. This district is intended to provide for medium density residential development with emphasis on two-family and single-family attached residential uses. This district is also intended to provide for infilling opportunities for parcels which for various reasons have been bypassed by development. This district is primarily intended to apply to areas presently served by a public sewer system.
- B. Permitted principal uses and structures.
 - (1) Permitted principal uses and structures in § 525-24B(1) through (5) in the RSF District.
 - (2) Two-family dwellings served by a public sewer system.
 - (3) Single-family attached dwellings served by a public sewer system.
- C. Permitted accessory uses and structures.

- (1) Permitted accessory uses and structures in § 525-24C(1) through (4) in the RSF District.
- (2) Home occupations.

D. Special exception uses and structures:

- (1) Special exception uses and structures in § 525-24D(1) through (8) in the RSF District.
- (2) Two-family dwellings not served by a public sewer system.
- (3) Planned unit developments, subject to the provisions of § 525-63.

E. Dimensional requirements.

- (1) Single-family detached dwellings. Dimensional requirements as provided in the RSF District.
- (2) Two-family dwellings.
 - (a) Served by public sewer and water, minimum dimensions as follows: lot area: 9,000 square feet (4,500 square feet per family); lot width: 75 feet; front yard: 25 feet; side yards, eight feet each; rear yard: 25 feet; maximum lot coverage: 30%; maximum height: 35 feet (2 1/2 stories).
 - (b) Not served by public sewer, minimum dimensions as follows: lot area and lot width as provided in Ch. Comm 85, Wis. Adm. Code, but in no event shall lot area be less than 18,000 square feet and lot width be less than 100 feet; front yard: 25 feet; side yards: 10 feet each; rear yard: 40 feet; maximum lot coverage: 15%; maximum height: 35 feet (2 1/2 stories).
- (3) Single-family attached dwellings.
 - (a) Each single-family attached development shall have a minimum lot area of 12,000 square feet and minimum lot width of 100 feet. Each group or series of single-family attached dwellings shall have a minimum front yard of 25 feet; side yards of 10 feet each; and rear yard of 25 feet; maximum density is 10 dwelling units per net acre; maximum lot coverage: 25%; and maximum height: 35 feet (2 1/2 stories). Not more than six dwelling units shall be contiguous or in one series or group and not more than two contiguous dwelling units in one group or series shall have the same or approximately the same roofline or building line. Not less than 40% of the total site area shall be landscaped in lawns, gardens, decorative plantings or wooded areas. A site plan under Article XII is required for all single-family attached dwelling developments. Common open spaces shall be subject to the requirements of § 525-37.
 - (b) Exception for zero-lot-line duplexes. [Added 8-17-2010 by Ord. No. 2010-03]

- [1] Lots shall have not less than fifty-foot frontage measured along the right-of-way line. If such lot is located on the outer radius of a curved street or cul-de-sac, the frontage may be measured at the building front setback line, provided the right-of-way frontage is at least 25 feet.
- [2] Lots shall have not less than 6,000 square feet in area.
- [3] A note shall be placed on the face of all certified survey maps and subdivision plats creating zero-lot-lines which states: "When attached dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe and maintenance shall be guarded against by private covenants and deed restrictions, and the approving authorities shall not be held responsible for same."
- [4] Easements shall be provided across zero lot lines where necessary for water, sewer and utility services.
- [5] A restrictive covenant shall be placed on the face of all certified survey maps and subdivision plats creating zero-lot-line lots which states: "Building permits are limited to the development of zero-lot-line duplexes on Lots ___ through ___, inclusive, unless two adjoining lots are combined and used as a single lot for the construction of a single-family dwelling unit. In this case, an odd number of lots may not be left as a series of consecutive lots."
- [6] There shall be a common wall. Wherever improvements abut on the common boundary line between adjoining units there shall be a one-hour fire wall running from the lowest floor level, including the basement if it is the common wall, to the underside of the roof sheathing. Such basement wall, if any, shall be waterproofed masonry.
- [7] When attached dwelling units are created, the plans, specifications and construction of such building shall require the installation and construction of separate sewer, water and other utility services to each dwelling unit.
- [8] Further division of lots containing 100 feet of frontage or less, presently abutting existing improved streets, shall not be permitted.
- [9] The side yard setback may be zero on one side, provided that:
 - [a] The lot adjacent to that side yard is held under the same ownership at the time of initial construction.
 - [b] The adjoining side yard setback of the lot adjacent to the zero side yard is also zero.
 - [c] The opposite side yard is not less than eight feet.

[d] Both units of duplex's exterior finish must be completed within one year of building permit issuance date.

- (4) Other permitted or permissible uses and structures: Dimensional requirements as provided in the RSF District.

§ 525-26. RMF Multifamily Residential District.

- A. Purpose. This district is intended to provide for medium- to high-density residential areas with emphasis on multifamily or apartment development. This district requires access to public sewer.
- B. Permitted principal uses and structures:
- (1) Permitted principal uses and structures in § 525-24B(1) through (5) in the RSF District.
 - (2) Two-family dwellings.
 - (3) Single-family attached dwellings.
 - (4) Multifamily dwellings, provided the building does not exceed three stories in height.
- C. Permitted accessory uses and structures. Permitted accessory uses and structures in § 525-24C(1) through (4) in the RSF District.
- D. Special exception uses and structures:
- (1) Special exception uses and structures in § 525-24D(1) through (4) in the RSF District.
 - (2) Multifamily dwellings in buildings exceeding three stories in height.
- E. Dimensional requirements.
- (1) Single-family detached dwellings. Dimensional requirements as provided in the RSF District.
 - (2) Two-family dwellings. Dimensional requirements as provided in the RTF District.
 - (3) Single-family attached dwellings. Dimensional requirements as provided in the RTF District.
 - (4) Multifamily dwellings.
 - (a) Not exceeding three stories or 45 feet in height, minimum dimensions are as follows: lot area: 10,000 square feet; lot width: 90 feet; front and rear yard: 25 feet; side yards: 20 feet each; maximum density: 20 dwelling units per net acre; lot coverage: 30%. Not less than 30% of the total site area shall be landscaped in lawns, gardens, decorative plantings or wooded areas. A site plan under Article XII is required.

- (b) Exceeding three stories or 45 feet in heights, minimum dimensions are as follows: lot area: 20,000 square feet; lot width: 100 feet; all yard: 25 feet each; provided, however, that for every two feet in building height above 45 feet, yard width or depth shall be increased one foot. Not less than 30% of the total site area shall be landscaped in lawns, gardens, decorative plantings or wooded areas. A site plan under Article XII is required.
- (5) Other permitted or permissible uses and structures: Dimensional requirements as specified in the RSF District.

§ 525-27. CL Local Commercial District.

- A. Purpose. This district is intended to apply to commercial establishments located to serve primarily localized commercial markets throughout the Town. It is the intent of this district to encourage grouping of such commercial establishments. The district is not intended to apply to major or large-scale commercial establishments of a regional character.
- B. Permitted principal uses and structures:
 - (1) Retail outlets including the sale of food, liquor, wearing apparel, art or photographic supplies, printing, books or stationary, sundries or notions, jewelry, luggage, florist or gifts, drugs, pets, home furnishings and appliances, sporting goods or hobbies, automotive parts, hardware and building supply establishments and uses of a similar nature.
 - (2) Service establishments including barber or beauty shop, shoe repair, laundry or dry cleaner, appliance repair, photographic or dance studio and uses of a similar nature.
 - (3) Business and professional offices including banks and other financial institutions, insurance and real estate, travel agency, medical or dental clinic, attorney's office, engineering office and uses of a similar nature.
 - (4) Taverns and restaurants.
 - (5) Hotels and motels.
 - (6) Clubs and organizations, profit or nonprofit.
 - (7) Indoor commercial recreational establishments including motion-picture theaters, billiard parlors, arcades, bowling alleys, rinks and uses of a similar nature.
 - (8) Convalescent homes and nursing homes and day care (family or group).
 - (9) Office equipment and supplies.
 - (10) Garden center, plant nursery or landscape contractor.
 - (11) Veterinary offices.

- (12) Mortuaries.
- (13) Equipment rental.
- (14) Existing dwellings.
- (15) Storage establishments.
- (16) Attached single-family residences.

C. Permitted accessory uses and structures:

- (1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permissible principal uses and structures when they are located on the same lot or a lot contiguous with the principal use or structure.
- (2) Public utility installations.

D. Special exception uses and structures:

- (1) Automobile filling stations and car washes.
- (2) Automobile, boat, motorcycle, construction equipment and farm implement sales, service and repair.
- (3) Wholesale and warehouse establishments.
- (4) Printing and publishing establishments.
- (5) Outdoor recreational establishments, including archery ranges, miniature golf and amusements.
- (6) Light manufacturing uses and structures such as packaging, bottling, storage facilities, and laboratories, provided all activities are conducted within completely enclosed buildings, not involving odor, noise, smoke or other noxious effects detectable to normal senses from off the premises.
- (7) Radio stations.
- (8) Dog kennels.
- (9) Building trades contractor with storage yard for material and equipment on premises, provided all materials and equipment are effectively screened from view from any residential lot or public highway.
- (10) Agriculture-related uses and structures, such as feedmills and co-ops.
- (11) Woodworking and cabinetry.
- (12) Billboards.

E. Dimensional requirements.

- (1) All permitted principal uses and structures. Minimum dimensions are as follows: lot area: 10,000 square feet; lot width: 90 feet; front yard: 35 feet; side yards: 20 feet each; rear yard: 50 feet; maximum lot coverage: 35%; and

maximum height: 50 feet. Any required yard adjacent to a residential district without an intervening street shall be subject to the landscaped buffer requirements of § 525-38.

- (2) All special exception uses and structures. Minimum dimensions are as follows: lot area: 12,000 square feet; lot width: 100 feet; front yard: 35 feet; side yards: 25 feet each; rear yard: 50 feet; maximum lot coverage: 35%; maximum height: 50 feet. Any required yard adjacent to a residential district without an intervening street shall be subject to the landscaped buffer requirements of § 525-38.

§ 525-28. CR Regional Commercial District.

- A. Purpose. This district is intended to apply to areas which are now intensely developed or are expected to be intensely developed for commercial uses serving a regional commercial market.
- B. Permitted principal uses and structures:
 - (1) Permitted principal uses and structures in § 525-27B(1) through (3) in the CL District where the building or structure does not exceed 40,000 square feet of floor area. The front of all buildings shall be faced with decorative masonry or other materials of suitable aesthetic, safety and durability value.
 - (2) Permitted principal uses and structures in § 525-27B(4) through (14) in the CL District. Building fronts shall meet the requirements of Subsection B(1) above.
- C. Permitted accessory uses and structures: permitted accessory uses and structures in the CL District.
- D. Special exception uses and structures:
 - (1) Retail, service and office uses and structures where the building or structure exceeds 40,000 square feet of floor area.
 - (2) Special exception uses and structures in § 525-27D(1) through (8) in the CL District.
- E. Dimensional requirements.
 - (1) All permitted or permissible principal uses and structures: lot area: 12,000 square feet; lot width: 100 feet; front yard: 35 feet; side yards: 20 feet each; rear yard: 50 feet; maximum lot coverage: 35%; maximum floor area ratio: 1 to 1. (Floor area ratio is the ratio of the floor area of the building or structure to the lot area.) There is no maximum height requirement except that, for every two feet in building height over 50 feet, yard depth or width shall be increased one foot. Ingress and egress shall be channeled and, where feasible, coordinated with adjacent establishments. Any required yard adjacent to the residential district without an intervening street shall be subject to the landscaped buffer requirements of § 525-38. A site plan under Article XII is

required for all buildings and structures exceeding 20,000 square feet.

§ 525-29. CP Planned Commercial District.

- A. Purpose. This district is intended to apply to large-scale commercial developments with either single or multiple buildings on a single lot or parcel designed and managed as a single entity. This district should be located such that there is direct access to major arterial streets and highways.
- B. Permitted principal uses and structures:
 - (1) Business and professional offices.
 - (2) Art gallery, museum, library, community center, publicly owned and operated recreational facilities.
 - (3) Hotels and restaurants.
 - (4) Clubs and organizations.
 - (5) Retail shopping centers, provided all sales and storage are conducted within a completely enclosed building.
 - (6) Hospitals, health centers, nursing homes and convalescent homes.
 - (7) Vocational, trade or business schools.
- C. Permitted accessory uses and structures:
 - (1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permissible principal uses and structures.
 - (2) Public utility installations.
- D. Special exception uses and structures:
 - (1) Privately owned auditoriums or convention centers.
 - (2) Privately owned sporting and recreational facilities.
- E. Dimensional requirements.
 - (1) All permissible principal uses and structures. Minimum dimensions: lot area: two acres; lot width (street frontage requirement): 200 feet; maximum lot coverage: 35%. This district contemplates more than one principal building on a lot. There are no minimum lot area requirements per building. However, no building shall be located within 25 feet of another building or exterior property line. There are no maximum height requirements except that, for every two feet in height above four stories or 50 feet, the width or depth of yards adjacent to exterior lot lines shall be increased one foot. A site plan under Article XII is required.

§ 525-30. IND Industrial District.

- A. Purpose. This district is intended primarily for manufacturing and closely related uses. It is intended to preserve such lands for the functions of industrial activity, wholesaling, warehousing and distribution. To allow maximum latitude for operations, performance standards are applied at district boundaries. It is further the intent of this district that it be so located in relation to major thoroughfares that resulting traffic generated by industrial activity will not be channeled through residential areas.
- B. Permitted principal uses and structures:
- (1) Wholesaling, warehouse, storage or distribution establishments (except bulk storage of flammable liquids) and uses of a similar nature.
 - (2) Automobile, boat, construction and farm implement sales, service and repair.
 - (3) Printing and publishing.
 - (4) Agriculture-related uses, including feedmills and co-ops.
 - (5) Service establishments catering to commercial and industrial uses including business machine services, linen supply, freight movers, communication services, canteen services and uses of a similar nature.
 - (6) Light manufacturing uses including bottling, packaging, laboratories and uses of a similar nature.
 - (7) Manufacturing uses, including production, processing, cleaning, testing and the distribution of materials and goods, except wrecking yards, fertilizer and chemical manufacture and canneries or slaughterhouses. All manufacturing uses are subject to the provisions of § 525-65.
 - (8) Building contractor with storage yard.
 - (9) Transportation terminals.
- C. Permitted accessory uses and structures:
- (1) Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
 - (2) Outside storage of materials and products, provided such storage shall not be closer than 25 feet from the street line or 10 feet from any lot line. Storage areas shall be enclosed by fencing material and/or landscaping to be 75% or more opaque between two feet and six feet above average ground level. All storage areas shall be surfaced with gravel or hard surface materials. Storage materials shall not be piled or stacked to a height beyond the principal building.
 - (3) Temporary storage of waste materials and trash, provided such materials/trash shall be enclosed by a fence of solid material not less than six feet in height.
 - (4) Public utility installations.

- D. Special exception uses and structures:
- (1) Bulk storage of flammable liquids.
 - (2) Fertilizer and chemical manufacture, subject to the provisions of § 525-65.
 - (3) Canneries and slaughterhouses, subject to the provisions of § 525-65.
 - (4) Automobile wrecking or salvage yards and junkyards, provided such use shall not be located closer than 250 feet to any property zoned residential and no portion of the lot within 25 feet of a public street or highway shall be used for any purpose other than off-street parking for employees or patrons. All activities and storage shall be completely enclosed pursuant to the landscaped buffer requirements of § 525-38.
 - (5) Sanitary landfills and energy-recovery systems.
- E. Dimensional requirements.
- (1) All permissible principal uses and structures. Minimum dimensions: lot area: 12,000 square feet; lot width: 100 feet; front yard: 35 feet; side yards: 20 feet each; rear yard: 25 feet; provided, however, there are no rear or side yard requirements when a railroad right-of-way abuts at the side or the rear of the property line. Any required side or rear yard adjacent to a residential district boundary shall be subject to the landscaped buffer requirement of § 525-38. Maximum lot coverage: 35%. There are no maximum height requirements except that, for every two feet in height above 50 feet, the width or depth of yards shall be increased by one foot. A site plan under Article XII is required for all buildings and structures exceeding 30,000 square feet in floor area.

ARTICLE VI
Supplementary District Regulations

§ 525-31. General application.

The regulations set forth herein shall supplement or modify the regulations set forth in Article V, Schedule of District Regulations.

§ 525-32. Setbacks on federal, state and county highways.

The front yard (setback) requirements enumerated in Article V are applicable to local streets and highways. Front yard (setback) requirements for federal and state highways are 50 feet and county trunk highways, 35 feet. Setback requirements for federal, state and county highways are subject to § 525-33B.

§ 525-33. Lots and yards.

- A. More than one building on a 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 this chapter shall be met for each building as though it were on an individual lot, unless otherwise specified in Articles V and IX for planned

commercial or residential developments.

- B. Through lots and corner lots. On through lots or lots with double frontage, the required front yard shall be provided on each street. On corner lots, the street side yard shall be equal to the required front yard for lots fronting on that street.
- 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 hereafter erected or moved shall be on a lot with 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, unless otherwise specified in Articles V and IX.
- 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 front and side yard shall be open and unobstructed by structures from 30 inches above the general ground level of the graded lot upward to the sky, except as hereinafter provided or as otherwise permitted in this chapter.
 - (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 10 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 distance from the adjacent lot line and shall not extend more than three feet from the building.

§ 525-34. Accessory uses and structures.

- A. Accessory building number limits. In any residential district, in addition to the principal building a detached garage or attached garage and one additional accessory building may be placed on a lot. No accessory building shall be built on a lot without a principal building.
- B. Attached accessory buildings. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.

- C. Detached accessory buildings. No detached accessory building shall occupy any portion of the front yard, and no detached accessory building shall occupy more than 30% of the rear yard, or be located within three feet of any other accessory building, principal building or lot line.
- D. Accessory structures. Notwithstanding fences, residential driveways and parking lots, unless otherwise provided by this chapter, no structure shall be located within three feet of any accessory building, principal building or lot line.
- E. Fences, walls, hedges.
 - (1) Definition. For the purposes of this chapter, a fence is herein defined as an enclosing barrier consisting of vegetation, wood, stone or metal, or other material. The term "fence" shall be construed to include plantings such as hedges.
 - (2) General regulations. No fence shall have sharp or pointed pickets dangerous to life or limb. Hedges and other plantings shall be continuously trimmed and all parts thereof confined to the property on which planted. Fences may be located on lot lines.
 - (3) Residential fences. No fence or hedges exceeding 3 1/2 feet in height shall be allowed within the building setback limits adjacent to a street right-of-way, except that, in a rear yard setback where there is no access to a street right-of-way, the maximum height may be six feet. The maximum height of fences on any other boundary line shall not be more than six feet in height, except the hedges may be permitted to grow to their natural height and pools with self-contained fencing or guardrails may reach a height of eight feet. Barbed wire fences, electrical fences, and single-, double- and triple-strand fences are prohibited. The most attractive side of a fence shall face adjoining property.
- F. Accessory parking and storage in residential districts. [Amended by Ord. No. 2003-01]
 - (1) There shall be no parking or storage of any motor vehicle, sports vehicle, boat, boat trailer, utility trailer, camper, motor home or other like business or recreational vehicle in the required front yard of any residential district except as follows: One occupied or unoccupied motor vehicle, sports vehicle, boat, boat trailer, utility trailer, camper, motor home or other like business or recreational vehicle may be parked upon a driveway providing access to a garage, carport or rear yard parking area for a period not to exceed 30 days per calendar year, provided that no part of such vehicle shall extend beyond the paved portion of the driveway onto the sidewalk, terrace or road right-of-way.
 - (2) No person shall park or store more than one unlicensed motor vehicle for a period in excess of six months. No person may offer any motor vehicles for sale on a recurrent basis in any residential district.
 - (3) 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 required front yard or closer than two feet to any residential lot line.

§ 525-35. Height exceptions.

The height limitations in Article V, Schedule of District Regulations, 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.

§ 525-36. Corner visibility.

On any 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 10 feet above the center-line grades of the intersecting streets in the area bounded by the right-of-way lines of such corner lots and a line joining the points along said right-of-way lines 25 feet from the point of intersection.

§ 525-37. Common open space.

- A. Nature. Common open space shall not include street rights-of-way, 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. 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 to assure preservation of its intended purposes. Land designated as common open space shall be restricted by appropriate legal instrument 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 recorded as a condition of approval.
- D. Maintenance. In the event that common open space is improperly maintained, the Town of Buchanan 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 maintenance deficiencies be corrected within 30 days. If the deficiencies to be originally set forth or subsequently modified are not corrected within 30 days, the Town may enter upon such common open space and correct maintenance deficiencies. The cost of such maintenance shall be assessed ratable against the properties within the development that have the right to use the area and shall become a tax lien on said properties. The Town shall file notice of any liens in the office of the Town Administrator/Clerk.

§ 525-38. 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.

- A. Requirements. Where this chapter requires a landscaped buffer area, the following requirements shall be met:
- (1) 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 or lines.
 - (2) The area shall be so designed, planted and maintained as to be 75% or more opaque between two and six feet above average ground level when viewed horizontally.
 - (3) Types and number 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.
 - (4) Plantings shall be of a size and type which will ensure the meeting of the seventy-five-percent opacity requirement within no longer than 12 months of the date of the first planting.
 - (5) Failure to maintain the landscaped buffer area as set out above shall be a violation of this chapter.
- B. Substitution for landscaped buffer area. Except when otherwise specifically provided by this chapter, a six-foot-high opaque structure set in a six-foot-wide landscaped buffer area may be substituted for the six-foot-high planted buffer above. If such opaque structure is of nonliving materials, for each 10 feet thereof, an average of one shrub or vine shall be planted abutting such barrier but need not be spaced 10 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.
- C. Sight distance. When an accessway intersects a public right-of-way, all landscaping shall provide unobstructed visibility at a level between 2 1/2 feet and 10 feet, as provided in § 525-36. No structure of landscaping except required grass or ground cover shall be located closer than three feet from the edge of any access.

§ 525-39. Private swimming pools.

No person shall construct, install or enlarge a residential swimming pool not enclosed in a permanent building in the Town except in accordance with the following regulations:

- A. Definition. "Swimming pool" means any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent and either above or below the ground, in which water more than 18 inches deep is contained and which is used primarily for the purpose of bathing or swimming.
- B. Permit.

- (1) Required. No person shall construct, install, enlarge or alter any private swimming pool unless a permit therefor has been first obtained from the Building Inspector.
- (2) Application. Application shall be on forms provided by the Building Inspector and shall be accompanied by plans drawn to scale showing the following:
 - (a) Location of pool on lot, distance from lot lines and distance from structure.
 - (b) Location of any septic tank, filter bed and sewer and water lines.
 - (c) Pool dimensions and volume of water in gallons.
 - (d) Location of proposed fence, and type, size and gate location.
 - (e) Existing overhead wiring relative to proposed pool.
 - (f) Underground utilities.
- (3) Fees. All fees shall be established by resolution of the Town Board.

C. Construction requirements.

- (1) No pool shall be located, erected, constructed or maintained closer to any side or rear lot line than allowed by this chapter for permitted accessory building uses, and the waterline of any pool shall not be less than 10 feet from any lot line or building.
- (2) No connection shall be made to the sanitary sewer or septic system.
- (3) Where topography requires, a permanent wall of concrete, masonry or material approved by the Building Inspector shall be constructed to prevent ground and fill from spilling onto adjoining property.
- (4) Gaseous chlorination systems shall not be used for disinfecting pool waters.
- (5) No aboveground pool shall be less than 15 feet from any septic system.

D. Fences.

- (1) All in-ground swimming pools not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, not less than five feet in height and so constructed as not to have void, holes or openings larger than two inches in one dimension. Gates or doors shall be constructed so as to be capable of being locked and shall be closed and secured so as to prevent unlatching by persons outside the pool at all times when the pool is not in actual use.
- (2) Aboveground pools within four-foot walls shall be considered fenced to prevent unguarded entry and shall be permitted without separate additional fencing, provided the pool wall is of the minimum height and design as herein specified.

- (3) Permanent access from grade to aboveground pools having stationary ladders, stairs or ramps shall have safeguard fencing and gates equivalent to those required herein, subject to all other applicable ordinances and subject to the following:
 - (a) No fence shall be located, erected, constructed or maintained closer than three feet to a pool.
 - (b) The wall of the house or building facing a pool may be incorporated as a portion of such fence.
- E. Utility sheds and other outbuildings shall not be located closer than five feet to pool area. [Amended 8-17-2010 by Ord. No. 2010-03]
- F. Electrical requirements.
 - (1) To comply with electrical codes. All electrical installations shall require separate permits and shall be governed by the Town Electrical Code.⁷
 - (2) Pool lights. If overhead floor or other artificial lights are used to illuminate the pool at night, such lights shall be shielded to direct light only on the pool.⁸

§ 525-40. Home occupations. [Added 8-17-2010 by Ord. No. 2010-03]

- A. Intent. It is the intent of this section to permit home occupations in any General Agricultural, Two-Family Residential and Single-Family Residential Zoning District, provided that such use conforms to the standards and conditions set forth in this section. In general, a home occupation is an accessory use so located and conducted that the average neighbor would not be aware of said use other than for signage as herein permitted. The standards and conditions for home occupations in this section are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood.
- B. Definition. "Home occupation" means any business, profession, trade or employment conducted in a person's residential dwelling which may involve that person's immediate family and/or household who reside in that residential dwelling.
- C. Standards for home occupations.
 - (1) The home occupation shall be clearly incidental to the residential use of the building and parcel and shall not change the essential residential character of the dwelling and parcel.
 - (2) The home occupation shall not be detrimental to the public health, safety and welfare.
 - (3) No chemical, mechanical or electrical equipment that is not normally a part of

⁷. Editor's Note: See Ch. 230, Building Construction, Arts. III and V.

⁸. Editor's Note: Original Sec. 63-06(13), Separation distances for public and private wells, which immediately followed this section and was added by Ord. No. 2006-05, has been moved to Ch. 460, Subdivision of Land, as § 460-70.

domestic or household equipment shall be used in connection with the home occupation, and no machinery or equipment shall be used in connection with the home occupation that causes noise or other interference in radio or television reception.

- (4) No home occupation shall create smoke, odor, glare, noise, dust, vibration, fire hazard or any other nuisance not normally associated with the average residential use in the district.
- (5) In no case shall the public have physical access to the home occupation from 10:00 p.m. to 7:00 a.m.
- (6) Home occupations shall not be allowed in accessory buildings or structures, and no more than 25% of the principal structure (residence and principal attached or detached garage) shall be used to conduct the home occupation.
- (7) The principal person conducting the home occupation must reside at the location of the home occupation. The home occupation can only be performed by members of the immediate family; thus there is no outside employment of individuals.
- (8) No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front yard.
- (9) There shall be no exterior storage of equipment, materials, merchandise, or inventory used for the home occupation, and there shall be no more than two vehicles so marked for the home occupation not contained in a structure at any time.
- (10) Deliveries accepted shall be by United States mail, United Parcel Service (UPS), Federal Express or other similar mail carrier. Semi-truck deliveries shall not be accepted.

D. Permitted home occupations.

- (1) The following are hereby declared to be home occupations as intended by this section:
 - (a) Artists, sculptors, photographers, arts and crafts.
 - (b) Bookkeeping, accountant or tax preparer.
 - (c) Classes of instruction in areas such as music and dance, provided that no more than eight students are on the premises at any one time.
 - (d) Child or adult care with eight or fewer children or adults.
 - (e) Dressmaker or seamstress.
 - (f) Hair dresser or pet groomer, provided that no more than two patrons are on the premises at any one time.

- (g) Manicure/pedicure, provided that no more than two patrons are on the premises at any one time.
 - (h) Office facilities of a salesperson, sales representative, or manufacturer representative, provided that no retail or wholesale transactions are made in person on the premises.
 - (i) Office facilities of an architect, writer, attorney, broker, financial consultant, engineer, insurance agent, medical professional, interior designer, land surveyor, marketing analyst, transcriber, word processor or real estate sales.
 - (j) Office facilities of a minister, rabbi, priest or other clergy.
 - (k) Office facilities to repair electronic, computer and communication equipment.
 - (l) Telephone, telemarketing, internet or mail order.
 - (m) Sales and distribution of products manufactured on or off the premises where the marketing of said products is through home-oriented sales on an appointment-only basis.
- (2) It is recognized that it is neither possible nor practicable to list all of the home occupations that are compatible with those listed, and therefore it is intended that the aforementioned list of home occupations be illustrative only. Any individual aggrieved by a failure to list a particular home occupation in this section shall have the right to file a petition with the Zoning Administrator for a determination as to the similarity of the intended home occupation with the home occupations listed.

E. Prohibited home occupations.

- (1) The following are hereby declared to be prohibited home occupations: any permitted use or special exception use as identified in Local Commercial, Planned Commercial or Industrial Zoning Districts except for uses identified in Subsection D as a permitted home occupation.
- (2) All other uses shall be declared prohibited and will only be permitted with an approved special exception permit as granted through the special exception permit process as identified in Article XIII of this chapter. Special exception permits, once granted, may be revoked by the Town Board for cause after notice and a hearing.

F. Signs. One sign shall be allowed not exceeding three square feet in area, nonilluminated and mounted flat against the wall of the principal building.

ARTICLE VII

Signs

[Amended 8-17-2010 by Ord. No. 2010-03]

§ 525-41. Purpose.

The purpose of this article is to establish standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs and billboards.

§ 525-42. Definitions.

For the purpose of this article, the following terms are defined. All other words and phrases shall be given their common, ordinary meaning, unless the context requires otherwise. Words and phrases not defined but defined elsewhere in this chapter shall be given the meaning set forth therein.

ACCESSORY SIGN — A sign relating in its subject matter to the premises on which it is located.

AWNING — A temporary hood or cover which projects from the wall of the building which can be retracted, folded or collapsed against the face of a supporting structure.

BANNER — Any sign of lightweight fabric, plastic or similar material mounted by the edges or corners to a pole or building. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

BILLBOARD — A sign which advertises goods, establishments, products or facilities, or services not on the premises where the sign is located or directs persons to a different location from where the sign is located.

BLANKETING — The unreasonable obstruction of view of a sign caused by the placement of another sign.

DIRECTLY ILLUMINATED SIGN — Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

DIRECTORY SIGN — Any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories.

ELECTRONIC MESSAGE UNIT SIGN — Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather, information concerning civic or charitable events or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.

FLASHING SIGN — Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.

GROUND AND/OR POLE SIGN — Any sign which is supported by structures or supports in or upon the ground and independent of support from any building. Also referred to as a freestanding, detached or pylon sign.

IDENTIFICATION SIGN — Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.

INDIRECTLY ILLUMINATED SIGN — A sign illuminated from a source(s) outside of the actual sign.

MARQUEE SIGN — Any sign attached to and made part of a marquee, defined as a permanent, roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

NONCONFORMING SIGN — Any sign which does not conform to the regulations of this article.

PORTABLE SIGN — Any sign, not permanently attached to the ground, which is designed to be easily moved from one location to another. Maximum size shall be three feet by six feet.

PROJECTING SIGN — Any sign extending more than 18 inches but less than five feet from the face of a wall or building.

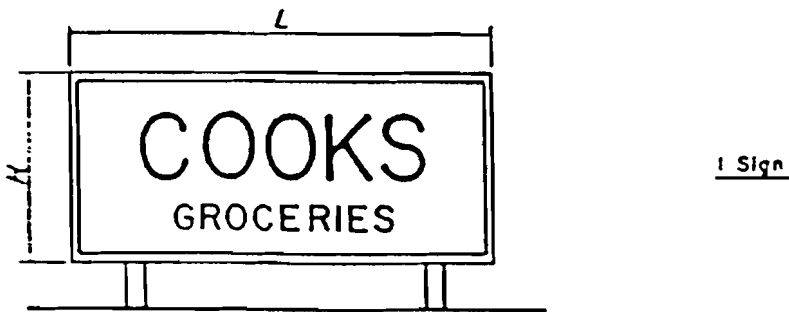
REAL ESTATE SIGN — Any sign that is used to offer for sale, lease or rent the property upon which the sign is placed.

ROOF SIGN — Any sign erected upon or over the roof or parapet of any building.

SETBACK — The required distance a sign must be located from a lot line, easement, right-of-way line, adjacent building or other feature as indicated in this article.

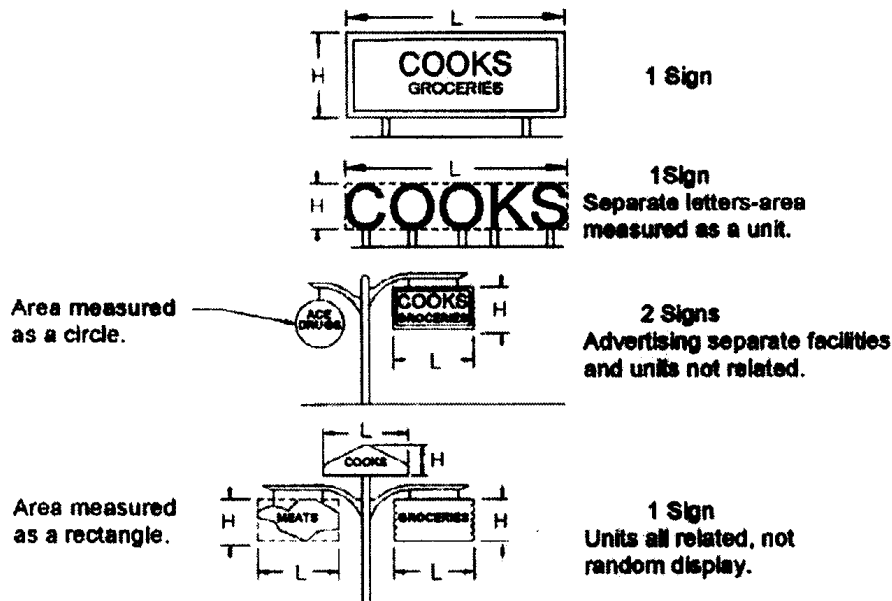
SIGN — See definition of "sign" in § 525-11.

SIGN AREA — Sign area shall be computed as including the entire area within the periphery of a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign, including all of the elements of the matter displayed, but not including frames or structural elements of the sign bearing no advertising matter. In the case of double-faced signs, where both faces advertise a single facility, product or service, only one face shall count towards area. (See illustration.)



SIGNS, NUMBER OF — For the purpose of determining number of signs, a sign shall be considered to be a single display surface or device containing elements organized, related and composed to form a unit. Where subject matter is displayed randomly without any organization of the elements, each element shall be considered to be one sign. (See

illustration.)



TEMPORARY SIGN — Any sign intended to be displayed for a short period of time, including real estate, political or construction site signs and banners, decorative-type displays or anything similar to the aforementioned.

WALL SIGN — Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than 18 inches from such wall.

WINDOW SIGN — Any sign located completely within an enclosed building and visible from a public way.

§ 525-43. Prohibited signs.

All signs not expressly permitted or exempt under this article are prohibited in any location in the Town.

- A. Prohibited signs include, but are not limited to:
 - (1) Animated signs that utilize flashing, blinking or travelling lights or change of lighting to show action or to create a special effect or scene.
 - (2) Painted signs directly on building walls unless allowed by permit.
 - (3) Signs containing statements, words, or pictures of an obscene or pornographic nature.
- B. Banners, streamers and all other fluttering or spinning signs shall be prohibited unless in connection with temporary sales, cultural events or civic activities.
- C. No sign shall display flashing or intermittent lights customarily associated with

danger or emergencies.

- D. Signs shall not be permitted on public rights-of-way, except for traffic control, parking and directional signs and as otherwise provided in this article.
- E. Signs shall not resemble, imitate or approximate the shape, size, form or color of traffic signs or devices. Signs shall not obstruct or interfere with the effectiveness of traffic signs, signals or devices for the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.
- F. No sign shall be erected which has any flashing, rotating or brilliant intermittent parts or lights or bare reflecting-type bulbs, except those giving public service information such as time, date, temperature, weather or similar information or where allowed by permit.
- G. Bills or posters shall not be posted on the exterior of buildings, windows, fences, signs, signposts or other structures.
- H. Blanketing of signs shall not be allowed.
- I. Balloons, floating signs or other tethered inflatable signs exceeding five feet in length are prohibited.

§ 525-44. Permit required; exemption.

No sign (except signs exempt from the provisions of this section) shall be located, erected, constructed, reconstructed, extended, altered, moved or enlarged until a building permit has been obtained from the Town Building Inspector. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the Town. The following signs are exempt from the permit requirement:

- A. Signs over show windows or doors of a conforming business establishment announcing without display or elaboration only the name and occupation of the proprietor.
- B. Real estate and construction signs. Signs which advertise the construction, sale, rental, or lease of the premises on the parcel, which said signs are temporarily placed.
 - (1) The maximum size in a single-family district shall be eight square feet.
 - (2) The maximum size in a district that is not a single-family district shall be as follows:
 - (a) Signs located on parcels adjoining streets or highways where the posted speed limit is less than or equal to 40 miles per hour shall not exceed 32 square feet.
 - (b) Signs located on parcels adjoining streets or highways where the posted speed limit is greater than 40 miles per hour shall not exceed 64 square feet.

feet.

- (c) Header boards or riders not to exceed 12 square feet may be added to a sign.
- (3) Signs may exceed 64 square feet by meeting one of the following tests:
 - (a) Signs submitted concurrently with a final plat for a subdivision may exceed 64 square feet with the approval of the Plan Commission.
 - (b) Signs submitted concurrently with a final site plan may exceed 64 square feet with the approval of the Plan Commission.
- (4) Number of signs on a non-single-family lot. The number of signs permitted on a controlled property is equal to one sign per street frontage plus one sign per 300 feet.
- (5) Removal. Real estate and construction signs shall be removed within 10 days of sale, lease or project completion.
- C. Name, occupation and warning signs not to exceed four square feet located on the premises.
- D. Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.
- E. Official signs, such as traffic control, parking restrictions, information and notices.
- F. Signs designating entrances, exits, service areas, parking areas, rest rooms and other such signs relating to functional operation of the building or premises not exceeding nine square feet.
- G. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers or names of occupants of premises.
- H. Flags and insignia of any government, except when displayed in connection with commercial promotion.
- I. Legal notices, identification information, or directional signs erected by governmental bodies.
- J. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- K. Temporary paper signs advertising a cultural or civic matter within 30 days of such event.
- L. Help wanted or employment signs.
- M. Home occupation signs as defined by § 525-40.

§ 525-45. General requirements.

- A. Installation. All signs shall be properly secured, supported and braced and shall be

kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector.

- B. Maintenance. All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean.
- C. Awnings. The lowest part of any awning shall be seven feet above the sidewalk or pavement. Signs are allowed directly on the awning or hanging on the frame but not below seven feet.
- D. Roof signs. No sign shall be located so as to project above the parapet line, unless approved by the Plan Commission. The sign shall not exceed 10 feet in height above the roof and shall meet all height requirements for the district in which it is located. The sign shall be considered part of the structure.
- E. Illuminated signs. Any illuminated signs shall not interfere with surrounding properties or traffic.
- F. Projection signs. Signs, including supports, shall not project beyond five feet from the face of the wall to which attached. Projecting signs fastened to, suspended from or supported by structures shall not exceed 20 square feet in area for one premises, shall not extend more than five feet into any required yard, shall not extend into any public right-of-way, shall not be less than 10 feet from all side lot lines, shall not exceed a height of 20 feet above the mean center-line street grade and shall not be less than 10 feet above a driveway or an alley.
- G. Wall signs. Wall signs placed against the exterior walls of buildings shall not extend more than 18 inches out from a building's wall surface and shall not extend above the wall on which they are placed.
- H. Ground/pole signs. A ground/pole sign shall meet all dimensional requirements for the district in which it is located, measured from the average lot grade if multiple road frontage exists.
- I. Temporary signs, banners and balloons for special events. A temporary sign(s) for the purpose of designating a new building or development, for announcement of a special (sales) event or for similar special informational purposes may be permitted for a limited period of time in any district with the approval of the Zoning Administrator and subject to the following:
 - (1) The permitted size and location of any such sign shall be at the discretion of the Zoning Administrator based upon the character of the area, the type and purpose of the sign(s) and the length of time permitted.
 - (2) Where the sign(s) is to be located on the premises involved, such may be permitted for a period up to 10 days. Off-premises temporary signs shall be permitted for 30 days maximum.
 - (3) Drawings showing the specific design, appearance and location of the sign(s)

may be required to be submitted to the Zoning Administrator prior to approval.

- J. Electronic message unit signs. Such signs may be used only to advertise activities conducted on the premises or to present public service information. Traveling messages may travel no slower than 16 light columns per second and no faster than 32 columns per second. An electronic message unit shall not be located in a residential district.
- K. Searchlights. The Town Board may permit the temporary use of a searchlight for advertising purposes in any district, provided that the light will not be located in any public right-of-way, will not be located closer than 10 feet to any adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlight permits shall not be granted for a period of more than five days in any six-month period.
- L. Inflatable signs. To advertise a special sale or event for a business, an inflatable, temporary sign may be used on the property where the business is located. The inflatable, temporary sign shall be permitted two times per calendar year for a seven-day period, upon issuance of a sign permit.

§ 525-46. Signs permitted by district.

- A. Permitted accessory signs in Agricultural Districts (AED and AGD).
 - (1) One sign, not exceeding 32 square feet in area, identifying the premises or establishment and one wall sign not exceeding 80% of the smallest side of a structure on the parcel.
 - (2) One sign, not exceeding 25 square feet in area, advertising the sale of farm products on the premises.
 - (3) Temporary signs for the sale or lease of the property.
- B. Permitted accessory signs in Residential Districts (RSF, RTF and RMF).
 - (1) One subdivision identification sign limited to 40 square feet in area.
 - (2) One temporary sign for each street frontage advertising the sale or lease of real estate and one temporary sign advertising the development of property. No temporary sign shall be erected within 10 feet of any adjacent side yard and no temporary sign shall remain after the sale, lease or development of the property.
 - (3) In connection with any public or semipublic institution, the following signs are permitted: one identification sign limited to 30 square feet in area, one bulletin board limited to 20 square feet in area and not more than two temporary signs or banners limited to a combined area of 30 square feet in connection with special events, provided that no such sign or banner shall be displayed for a period of more than two weeks.

- (4) No sign in a residential district shall exceed eight feet in height or produce artificial light from within.

C. Permitted accessory signs in Local Commercial and Regional Commercial Districts (CL and CR).

- (1) For each lot, the following signs:
 - (a) One detached sign in the building setback area (front yard), as shown in Table S-1.⁹ No part of said sign shall be closer than 10 feet to the right-of-way unless such sign is less than 2.5 feet in height above grade or at least 12 feet above grade (excluding supporting structures to the bottom of the structure). (Clear space shall be maintained between 2.5 feet and 12 feet above grade for visibility purposes.)
 - (b) Two detached signs may be permitted if a parcel has a second street frontage subject to the following additional regulations:
 - [1] For corner lots, each street frontage must be at least 200 feet before two signs are allowed.
 - [2] Maximum size of the two signs is 100 square feet for the primary sign and 64 square feet for the secondary sign.
 - [3] In no case will two detached signs be allowed on the same street frontage for the same parcel.
 - (c) No portion of any sign shall overhang the right-of-way.
 - (d) Building permits are required prior to placement of permanent signs.
- (2) Wall, projecting and marquee signs. Temporary signs advertising the sale or lease of property are permitted without permits, provided that they conform to the dimension requirements for the underlying zoning districts.

D. Permitted accessory signs in Planned Commercial District (CP).

- (1) For each development: one general identification sign limited to 300 square feet in area if maintained approximately parallel to the right-of-way or two signs limited to 150 square feet in area if mounted back to back or angled to be read from opposite directions, for each frontage of development. Maximum height shall be 25 feet as measured from grade.
- (2) For each lot: signs as permitted within the Local Commercial and Regional Commercial Districts.

E. Permitted accessory signs in Industrial District (IND).

- (1) For each lot, the following signs:
 - (a) One detached sign in the building setback area (front yard), as shown in

⁹. Editor's Note: Table S-1 is included at the end of this section.

Table S-1. No part of said sign shall be closer than 10 feet to the right-of-way unless such sign is less than 2.5 feet in height above grade or at least 12 feet above grade (excluding supporting structures to the bottom of the structure). (Clear space shall be maintained between 2.5 feet and 12 feet above grade for visibility purposes.)

- (b) Two detached signs may be permitted if a parcel has a second street frontage subject to the following additional regulations:
 - [1] For corner lots, each street frontage must be at least 250 feet before two signs are allowed.
 - [2] Maximum size of the two signs is 130 square feet for the primary sign and 64 square feet for the secondary sign.
 - [3] In no case will two detached signs be allowed on the same street frontage for the same parcel.
- (c) No portion of any sign shall overhang the right-of-way.
- (d) Building permits are required prior to placement of permanent signs.
- (2) Wall, projecting and marquee signs. Temporary signs advertising the sale or lease of property are permitted without permits, provided that they conform to the dimension requirements for the underlying zoning districts.

Table S-1: Dimensional Requirements for Permitted On-Premises Signs

Type of Sign	District	
	CL and CR	IND
Freestanding sign - pole/monument		
Height measured from average lot grade	20 feet; adjoining STH 441 50 feet	20 feet
Area	100 square feet per establishment, up to 200 per square feet per lot	130 square feet per establishment
Setback, front and side yard and right-of-way	10 feet (unless less than 2.5 feet high or with 12 feet of clearance from grade)	10 feet (unless less than 2.5 feet high or with 12 feet of clearance from grade)
Number of ground/pole signs	1 per lot (2 if second street frontage)	1 per lot (2 if second street frontage)
Wall sign		
Area	2 square feet of sign area per linear foot of building or	1.75 square feet of sign area per linear foot of lot

tenant frontage

frontage

§ 525-47. Nonconforming signs.

- A. Signs eligible for characterization as legal nonconforming. Any sign located within the Town of Buchanan limits as of the date of adoption of this article which does not conform to the provisions of this article is eligible for characterization as a legal nonconforming sign and is permitted, provided that it meets the following requirements:
 - (1) The sign was covered by a proper sign permit prior to the date of adoption of this article.
 - (2) If no permit was required under the applicable law for the sign in question, the sign was, in all respects, in compliance with applicable law on the date of adoption of this article.
- B. Altering nonconforming sign. No nonconforming sign shall be altered in any manner which would increase the degree of nonconformity. If such sign is destroyed or damaged to an extent of more than 50% of its replacement cost at the time of destruction, such sign shall be replaced as a conforming sign, except as provided in § 62.23(7)(hc), Wis. Stats. If a nonconforming sign is destroyed or damaged to an extent of less than 50% of its replacement cost at the time of destruction, it may be reconstructed, provided that any reconstruction does not increase the degree of nonconformity which previously existed.
- C. Loss of legal nonconforming status.
 - (1) A sign loses its nonconforming status if one or more of the following occurs:
 - (a) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with the requirements of this article than it was before alteration.
 - (b) The sign is relocated.
 - (c) The sign fails to conform to the Town requirements regarding maintenance and repair, abandonment or dangerous or defective signs.
 - (2) On the date of occurrence of any of the above, the sign shall be immediately brought into compliance with this article with a new permit secured therefor or shall be removed.
- D. Legal nonconforming sign maintenance and repair. Nothing in this article shall relieve the owner or user of a legal nonconforming sign or the owner of the property on which the sign is located from the provisions of this article regarding safety, maintenance and repair of signs.

§ 525-48. Dangerous and abandoned signs.

- A. Removal. All signs shall be removed by the owner or lessee of the premises upon which the sign is located when a business which it advertises has not been conducted for a period of six months or when, in the judgment of the Building Inspector, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Town Board may have the sign removed at the cost of the owner, following adequate written notice.
- B. Alterations. Any sign which was erected before the adoption of this article shall not be rebuilt or relocated without conforming to all the requirements of this article.

§ 525-49. Billboards.

- A. Billboard locations.
 - (1) Billboards are permitted as a special exception in the Local Commercial (CL) District only.
 - (2) No more than one billboard back-to-back shall be erected upon one lot.
 - (3) The maximum size billboard shall be 250 square feet.
 - (4) No billboard may be erected within 800 feet of another existing billboard measured along or across the same right-of-way.
 - (5) No billboard may be erected within 300 feet of any noncommercial districts.
 - (6) The maximum height of a billboard shall be 30 feet above the center line of the grade of the road to which it fronts. In no event shall the maximum height of any billboard exceed the height requirements for buildings in the underlying zoning district. The minimum height shall be 12 feet above grade.
 - (7) No billboard shall be erected within 100 feet of an intersecting right-of-way of signalized intersections, and no billboard shall be erected within 50 feet of the intersecting right-of-way of all other streets.
 - (8) No billboard shall be erected without evidence being provided to the Town which demonstrates that erection of said billboard is assented to by the property owner.
- B. Abandoned billboards. Except as otherwise herein provided, all billboards and/or sign messages shall be removed by the owner or lessee of the premises upon which an off-premises sign/billboard is located when the business advertised is no longer conducted where advertised. If the owner or lessee fails to remove the sign/billboard, the Town Board shall give the owner 60 days' written notice to remove said sign/billboard and, thereafter, upon the owner's or lessee's failure to comply, may remove such sign/billboard, any cost for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Town Board may take any other appropriate legal action necessary to attain compliance.

§ 525-50. (Reserved)

ARTICLE VIII
Off-Street Parking and Loading ¹⁰

§ 525-51. 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 1/2 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% 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% or more in floor area, said 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 operating during the same hours. A written agreement 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 must 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. 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 on the Schedule of District Regulations as a basis for determining the amount of off-street parking required.
- H. Design standards. Each required off-street parking space shall have a stall width of at least nine feet and have a stall length of at least 18 feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: 11 feet for thirty-degree parking; and 20 feet for ninety-degree parking. Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet. No parking area of

10. Editor's Note: This article contains original Secs. 63-06(8) and 63-06(9), as well as the subsections pertaining to off-street parking that originally appeared in Secs. 63-05(4) through 63-05(10).

more than four spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five spaces shall be sufficiently screened in the former of a solid fence or shrubbery to protect any adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands. All parking areas shall be surfaced with a durable, dustproof surface consisting of concrete or bituminous concrete or of compacting gravel or crushed stone properly sealed and surface treated.

§ 525-52. 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 to 10,000	1
	10,000 to 20,000	2
	20,000 to 40,000	3
	40,000 to 60,000	4
	Each additional 50,000	1
Hotels, offices, hospitals and places of public assembly	5,000 to 10,000	1
	10,000 to 50,000	2
	50,000 to 100,000	3
	Each additional 25,000	1
Funeral homes	2,500 to 4,000	1
	4,000 to 6,000	2
	Each additional 10,000	1

B. Multiple or mixes 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 10 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 any neighboring residence.

§ 525-53. RSF District.

Off-street parking requirements.

- A. Dwellings: 1.5 per unit.
- B. Churches: 1 per 3 fixed seats.
- C. High schools: 1 per 3 students plus 1 per employee.
- D. Elementary school, junior high school, day nurseries: 1 per employee.
- E. Libraries, exhibits, community centers: 1 per 3 persons of maximum capacity.
- F. Convalescent home, children's home, nursing home: 1 per 4 beds plus 1 per employee.

§ 525-54. RTF District.

Off-site parking requirements: applicable requirements as specified in the RSF District.

§ 525-55. RMF District.

Off-street parking requirements: applicable requirements as specified in the RSF District.

§ 525-56. CL District.

Off-street parking requirements.

- A. Retail and service establishments (except restaurants) and business and professional offices: 1 per 200 square feet of floor area.
- B. Taverns and restaurants (except drive-in restaurants): 1 per 100 square feet of floor area.
- C. Drive-in restaurants: 1 per 50 square feet of floor area.
- D. Hotels and motels: 1 per sleeping room plus parking requirements for taverns of restaurants as applicable.
- E. Clubs and organizations, mortuaries, theaters and other recreational establishments: 1 per 3 persons of maximum capacity.

- F. Printing and publishing and light industrial: 1 per employee.
- G. Convalescent or nursing homes: 1 per 4 beds plus 1 per employee.
- H. Wholesale and warehouse establishments: 1 per 300 square feet of floor area.

§ 525-57. CR District.

Off-street parking requirements: off-street parking requirements as specified in the CL District.

§ 525-58. CP District.

Off-street parking requirements.

- A. As specified in the CL or CR District.
- B. Auditoriums and convention centers: 1 per 3 persons of maximum capacity.

§ 525-59. IND District.

Off-street parking requirements.

- A. Applicable parking requirements as specified in the CR District.
- B. Manufacturing: one per employee on maximum shift.

ARTICLE IX
Special Provisions

§ 525-60. General application.

Requirements for uses and structures specified in this article shall apply to such uses and structures whether permitted by right or by special exception.

§ 525-61. Accessory dwellings.

- A. Intent. It is the intent of the accessory dwelling provisions to provide for housing options for the extended family and certain specified segments of the population. These regulations are established to permit modification of single-family dwellings to include an accessory dwelling unit to be occupied by no more than two persons who are handicapped, over the age of 60, or related to the owner-occupant.
- B. Mandatory owner occupancy. The owner of the single-family residence must occupy either the principal residence or the accessory residence.
- C. Nature and scale of accessory unit. An accessory dwelling may be a separate, complete housekeeping unit; provided, however, that it is substantially contained within the subordinate part thereof. Permissible modifications to the structure are a limited extension of the structure to the rear and the creation of a separate entrance at the side or rear. The accessory apartment shall not exceed 600 square feet of floor area or 25% of the entire floor area of the dwelling, whichever is greater. Any

external modification shall be done with a design and materials similar in appearance to the principal structure such that, to the maximum extent possible, the external appearance of the dwelling will remain as a single-family dwelling.

- D. Dimensional requirements. Maximum lot coverage and maximum height requirements, as well as minimum yard requirements in the RSF District shall be met.

§ 525-62. Resource extraction.

- A. Intent. It is the intent of this chapter to permit resource extraction uses in outlying areas as a temporary or transitional use with assurances that later reuse for other permissible uses and structures is possible.
- B. Existing operations. The requirements of this section shall not apply to existing operations only where more than 50% of the area (excluding setbacks required herein) of a parcel of record has been excavated at the time of adoption of this chapter. Where less than 50% of the area has been excavated, any extension of operations within the parcel or on adjacent parcels shall comply with the requirements of this section including restoration for the entire parcel(s).
- C. Uses and operations. Permitted uses or operations shall include the removal for sale or processing of timber, natural vegetation, topsoil, fill, sand, gravel, rock or any mineral. Processing may include crushing, washing or refining. Storing or stockpiling of such materials on the site is permissible. Permissible uses may also include concrete or asphalt manufacturing.
- D. Area and setback requirements. The parcel shall consist of a minimum of five acres with dimensions sufficient to adequately accommodate the proposed uses with minimum adverse effects on adjacent lands. No operations shall be permitted within 100 feet of any exterior boundary of the tract or within 250 feet of any building intended for human occupancy existing at the time of permit application. For operations involving blasting, processing or manufacturing, the Plan Commission may increase required setbacks as a condition of approval.
- E. Location. Location shall be appropriate to existing development and development which may reasonably be expected within the time period specified herein for permits. The site shall be so located as to make it unnecessary to conduct trucking operations on any platted street in a residential subdivision.
- F. Plan of operation. Each application for a special exception shall be accompanied by a plan of operation for the site including the following information:
 - (1) Statement of ownership of the parcel and control of the operations.
 - (2) Extent of the area to be excavated.
 - (3) Location, width and grade of all easements or rights-of-way on or abutting the parcel.
 - (4) Existing topography by five-foot contour intervals; existing watercourses and

drainageways; existing vegetation and soils; depth to groundwater as indicated by at least four borings; and existing buildings or structures.

- (5) Cross section showing extent of sand and gravel deposits and the water table.
 - (6) Estimated type and volume of excavations; method(s) of extracting and processing; and the sequence of operations.
 - (7) Proposed equipment and proposed locations of equipment; proposed areas for ponding; proposed drainage modifications; proposed processing and storage areas; proposed interior roads and ingress and egress to the site; and proposed areas for the disposition of overburden of topsoil.
- G. Plan of restoration. Each application for a special exception shall be accompanied by a plan of restoration for the site including the following information:
- (1) A statement on the planned restoration, including phasing and timing of the restoration process and reuse of the site.
 - (2) A plan showing fill methods and materials; final contours of the site; proposed roads within the site; the location of any water bodies or watercourses within the restored area; landscaping or vegetative planting; and areas of cut and fill.
 - (3) The method of disposing of any materials, equipment or buildings on the site.
- H. Time limitations. No special exception permit shall be issued for a period exceeding eight years, consisting of not more than six years for the operational phase and not more than two years for the restoration phase. Upon expiration of the operational phase, the applicant may request and receive extensions of this phase for three-year periods unless changing conditions indicate the extension will be detrimental to the public health, safety and welfare. Any extension shall require the submission of a new plan of restoration if the operation is extended or enlarged. If such extension is denied, the applicant shall complete the restoration phase within the two-year time period specified.
- I. Financial assurance. To ensure completion of the restoration phase, as proposed within the two-year time period, each applicant shall submit a performance bond or other financial guarantee sufficient in amount to cover the restoration expense relative to the proposed operation or extension thereto.

§ 525-63. Planned Unit Development (PUD). [Amended 8-18-2009 by Ord. No. 2009-05]

- A. Intent. The intent of the planned unit development provisions is to encourage quality and desirable development by allowing for greater flexibility and design freedom than that permitted under basic district regulations. These regulations are established to permit and encourage diversification, variation and imagination in layout of development; to encourage the preservation of open space; and to encourage more rational, economic development with respect to the provisions of public services.
- B. Unified control. All land included for development as a PUD shall be under the

legal control of the applicant, whether that applicant be an individual, partnership, or corporation or group of individuals, partnerships or corporations. Applicants requesting approval of a PUD shall present firm evidence of unified control of the entire area within the proposed PUD together with evidence that the developer has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provisions of this chapter. The applicant shall state agreement to:

- (1) Proceed with the proposed development according to the provisions of these zoning regulations and such conditions as may be attached to the special exception for PUD.
 - (2) Provide agreements, contracts and deed restrictions necessary for completion of the development according to the approved plans.
 - (3) Bind their successors in title to any commitments made in the approval process.
- C. Permitted uses. All the permitted uses of the RMF, CL, CP and IND Zoning Districts in which the PUD is located, to allow for more development flexibility.
- D. General requirements. All permitted uses shall be subject to the accessory use and structure, sign, height and parking requirements of the district in which it is located.
- E. Area and density requirements. A tract of land proposed for development as a planned unit development shall contain a minimum area of two acres and a maximum density of 12 dwelling units per net acre.
- F. Internal lots and frontage. Within the boundaries of the PUD, no minimum lot size or minimum yards shall be required; provided, however, that no structure shall be located closer to any peripheral property line than a distance equal to the height of such structure.
- G. Access. Every dwelling unit shall have access to a public street either directly or via an approved private road, pedestrianway, court or other area dedicated to public or private use or common element guaranteeing access. Permitted uses are not required to front on a dedicated public street.
- H. Engineering design standards. Normal standards or operational policy regarding right-of-way widths, provision for sidewalks, streetlighting and similar environmental design criteria shall not be mandatory in a planned unit development, but precise standards shall be made a part of the approved plan and shall be enforceable as a part of this chapter.
- I. Procedures for approving planned unit developments.
- (1) Preapplication review.
 - (a) Before submitting an application for a PUD, an applicant shall confer with the Plan Commission, Town staff and other Town department heads, if required, in connection with the preparation of the application for a planned unit development.

- (b) The purpose of the preapplication conference shall be to familiarize both the applicant and the Plan Commission with each other's intentions with respect to the PUD before the applicant enters into binding commitments or incurs substantial expense.
 - (c) At the preapplication conference, the Plan Commission shall familiarize the applicant with the PUD process and explain to the applicant issues that should be considered in planning the project. The applicant shall inform the Plan Commission of his development concept through general outlines and sketch plans. Any statement made by either the Plan Commission or the applicant concerning potential disposition of a PUD application or the final form of the development shall not be legally binding.
- (2) Development plan. A development plan shall accompany the application for a special exception permit and contain the following information:
- (a) Names of the owners and developer.
 - (b) Scale, date, North arrow.
 - (c) Existing streets, buildings, watercourses, easements and utility lines.
 - (d) Proposed pattern of public and private streets, accessways and parking areas.
 - (e) Locations and arrangements of lots,
 - (f) Buildings by dwelling types, open space areas and recreational facilities, if any.
 - (g) Architectural drawings and sketches illustrating the design and character of the various buildings proposed.
 - (h) Appropriate statistical data on the size of the development, number of dwellings by type, percentage of open space and other data pertinent to review.
 - (i) General outline of deed restrictions and other documents pertaining to the development, operation and maintenance of the project.
- (3) Plan approval. Upon approval of a development plan, a special exception permit shall be issued. All terms, conditions and stipulations made at the time of approval shall be binding upon the applicant or any successors in interest.
- (4) Preliminary and final plans. Approval of a development plan for a special exception does not constitute preliminary or final plat approval. Preliminary and final plats shall be submitted and processed in accordance with standard subdivision review procedures.
- (5) Changes in plan. Minor changes in plans shall be made by application and follow procedures pursuant to Article XII. Minor changes shall not be

considered a reapplication for special exception permit. Substantial changes in plans shall be made by application and processed as a new application for a special exception permit.

- (6) Deviations from approved plans. Deviations from approved plans or failure to comply with any requirement, condition or safeguard during approval or platting procedures shall constitute a violation of these zoning regulations.
- J. Building permits. Final approval does not constitute approval for the construction of individual buildings or structures in the development. Application for building permits shall be submitted and processed in accordance with standard procedures.

§ 525-64. (Reserved) ¹¹

§ 525-65. Industrial development.

- A. Intent. It is the intent of this section to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control, and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects.
- B. Standards of operations.
 - (1) Vibration. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the Industrial District boundaries. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. Vibrations not directly under the control of the property uses and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.
 - (2) External lighting. No operation or activity shall produce any intense glare or lighting with the source directly visible beyond the Industrial District boundaries.
 - (3) Odor. No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor, as defined in Ch. NR 429, Wis. Adm. Code.
 - (4) Particulate emissions. No operation or activity shall emit any particulate matter into the ambient air which exceeds the limitations as established in Ch. NR 415, Wis. Adm. Code.
 - (5) Visible emissions. No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Ch. NR 431, Wis. Adm. Code.

¹¹. Editor's Note: Original Sec. 63-07(5), Cluster subdivision, was repealed 8-17-2010 by Ord. No. 2010-03.

- (6) Hazardous pollutants. No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Ch. NR 445, Wis. Adm. Code.
- C. Administration. Determinations necessary for the administration and enforcement of these standards range from those which can be made by a reasonable person using normal senses and no mechanical equipment to those requiring substantial technical competence and complex equipment. It is the intent of this section that the methods to be used in determining compliance shall be the responsibility of the Building Inspector and Zoning Administrator, subject to the following procedures:
- (1) Approval of building permits. Prior to approving a building permit for any industrial use or any change thereof, the Building Inspector and Administrator shall have received from the applicant evidence or assurance that the proposed use or changing use will satisfy the air quality, vibration and exterior lighting standards of this chapter. [Amended 8-17-2010 by Ord. No. 2010-03]
 - (2) Violation of standards. Whenever the Building Inspector or Administrator have reason to believe the air quality, vibration and exterior lighting standards of this chapter have been violated, written notice shall be made by certified mail to the person or persons responsible for the alleged violation. Such notice shall describe the alleged violation and shall require an answer or correction of the alleged violation within 30 days. Failure to reply or correct the alleged violation within 30 days may cause lawful action to be taken to cause correction as provided in this chapter or referral of the alleged violation to the Wisconsin Department of Natural Resources.

ARTICLE X

Administration and Enforcement

§ 525-66. Town Zoning Administrator.

The provisions of this chapter shall be administered and enforced by the Town Zoning Administrator (hereinafter referred to as the "Administrator"). The Administrator is authorized to act through aides and assistants. In the performance of the duties of the office of Zoning Administrator, the Administrator may request the assistance of any appropriate officer or agency of the County or State of Wisconsin.

§ 525-67. Administrator duties and powers.

The Administrator shall have the following duties and powers:

- A. Examine all applications for building permits and, if necessary, advise the Town Building Inspector as to the provisions of this chapter and arrange for corrections to be made to ensure compliance with this chapter, and, for applications for building permits for any structure requiring connection to a private domestic sewage treatment and disposal system, advise the Town Building Inspector as to whether a system satisfying all applicable codes already exists or that all permits necessary to

install such a system have been obtained. All permits shall be examined to ensure any proposed construction will not interfere with a functioning private domestic sewage treatment and disposal system.

- B. Examine all applications for special exceptions and building permits which require submittal and approval of a site plan under Article XII of this chapter and refer such applications to the Plan Commission. Special exception permits and building permits which require site plan approval shall only be issued upon order of the Plan Commission.
- C. Receive all applications for a special exception, interpretation, appeal and/or variance and refer such applications to the Plan Commission or Board of Adjustment. A variance shall only be issued upon order of the Board of Adjustment.
- D. Conduct inspections to determine compliance or noncompliance with the provisions of this chapter.
- E. Issue stop-work, cease and desist orders, and orders requiring the correction of all conditions found to be in violation of the provisions of this chapter. Such written orders shall be posted on the property in a conspicuous place and/or served personally or by certified mail upon persons deemed by the Administrator to be in violation of the provisions of this chapter. It shall be unlawful for any persons to violate any such order issued by the Administrator.
- F. Institute in the name of the Town any appropriate action or proceedings to prevent violations of this chapter.
- G. Revoke by order any building permit approved under a misstatement of fact or contrary to the provisions of this chapter.
- H. Maintain maps of all special exceptions and maintain a file on each.
- I. Upon request of the Town Board, Plan Commission, or Board of Adjustment, present to such persons or bodies facts, records or reports which they may request to assist them in making decisions, or assist them in any other way as requested.
- J. Maintain a map or maps showing the current zoning classification of all lands under the jurisdiction of this chapter. The Administrator shall also ensure that a current copy of the Official Zoning Atlas is available for public inspection.¹² [Amended 8-17-2010 by Ord. No. 2010-03]

§ 525-68. Town Building Inspector.

- A. Upon adoption of this chapter, the Town shall appoint a Town Building Inspector. The Town Building Inspector shall not be a deputy to the Zoning Administrator.
- B. Town Building Inspector's duties and powers.

¹². Editor's Note: Original Sec. 63-08(2)(k), which immediately followed this subsection, was repealed 8-17-2010 by Ord. No. 2010-03.

- (1) Receive and examine all applications for building permits and forthwith transmit copies of all such applications to the Administrator.
- (2) Issue building permits only where there is compliance with the provisions of this chapter. Building permits for structures requiring connection to a private domestic sewage treatment and disposal system shall be issued only where there is compliance with applicable sanitary codes. Building permits which require site plan approval under Article XII of this chapter shall only be issued by order of the Plan Commission. Building permits for development in the floodplain, shoreland and wetland jurisdiction of the Town of Buchanan shall not be issued until approved by the Zoning Administrator.
- (3) Receive and forthwith transmit to the Administrator all applications for building permits which require site plan approval under Article XII of this chapter.
- (4) Conduct inspection to determine compliance or noncompliance with the provisions of this chapter and report any violations of this chapter to the Administrator and the Town Board.

§ 525-69. Remedies.

Compliance with the provisions of this chapter shall be enforced by appropriate fines and penalties. Compliance may also be enforced by injunctive suit of the Town or by the owner or owners of real estate within the district affected by the regulation.

§ 525-70. Violations and penalties. [Amended 8-17-2010 by Ord. No. 2010-03]

Any person who violates any provision of this chapter or any order, rule or regulation made hereunder shall, upon conviction, forfeit not less than \$10 nor more than \$500 for such offense, together with the costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense.

§ 525-71. Notice of violation. [Amended 8-17-2010 by Ord. No. 2010-03]

If the Administrator finds that any of the provisions of this chapter are being violated, he/she shall notify, in writing by registered or certified mail, the person(s) responsible, indicating the nature of the violation and ordering the action necessary to correct the violation. Whenever a person shall have been notified in writing that he/she is in violation of the provisions of this chapter, such person shall commence correction of all violations within five days of notice. If such corrections are not corrected within five days of written notice, each day that a violation continues shall be considered a separate offense.

ARTICLE XI
Building Permits

§ 525-72. Applicability. [Amended 8-17-2010 by Ord. No. 2010-03]

No building or structure (except signs exempt from the provisions of this chapter) shall

be erected, constructed, reconstructed, altered, moved or enlarged until a building permit has been obtained from the Administrator or Town Building Inspector and a fee has been paid as listed in the Town Fees and Licenses Schedule.¹³

§ 525-73. Application for building permit.

Application for a building permit shall be made in writing upon a form furnished by the Town of Buchanan and shall include the following information:

- A. Name and address of the owner of the land and the owner of the building or structure, if different.
- B. Plot and construction plans drawn to scale, showing the actual shape and dimensions of the lot to be built upon and the exact sizes and locations on the lot of buildings or structures already existing, if any, and the exact sizes and locations on the lot of buildings or structures proposed to be erected, constructed, reconstructed, altered or enlarged.
- C. The existing and/or proposed use of all buildings or parts thereof on the lot.
- D. The number of families the building is designed to accommodate, the gross leasable floor space of the building, or the number of employees the building is designed to accommodate.
- E. The location and number of required off-street parking and loading spaces.
- F. Such other information with regard to the lot and existing or proposed buildings or structures as may be necessary to determine compliance with and provide enforcement of this chapter, including, but not limited to, a detailed plan of any existing private domestic sewage treatment and disposal system.

§ 525-74. Approval and issuance of building permit.

If the Administrator or Town Building Inspector determine that the proposed structure or building will comply with the provisions of this chapter, he/she shall officially approve and sign one set of plans and return it to the owner or applicant and shall issue a building permit which shall be kept on display at the site of the proposed building or structure.

§ 525-75. Construction to be as provided in applications.

Building permits issued on the basis of applications and plans approved by the Administrator or Town Building Inspector authorize only the use, arrangement and construction set forth in such approved applications and plans. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this chapter.

§ 525-76. Lapse of permit.

A building permit shall have lapsed and be void unless substantial construction or

13. Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator/Clerk's office.

operations described in the permit are commenced within one year from the date of its issuance.

§ 525-77. Improper issuance.

A building permit which was issued in error or under a misstatement of fact by the applicant shall not create any right in such permit, and the Town shall be entitled to revoke such permit.

§ 525-78. Prior permits.

No building permit lawfully issued by the Administrator or Town Building Inspector prior to the effective date of adoption or amendment of this chapter shall be invalidated by the adoption or amendment of this chapter. Such permit shall remain valid and subsisting, subject only to its own terms.

ARTICLE XII
Site Plans

§ 525-79. Applicability and procedure. [Amended 1-20-2009 by Ord. No. 2009-01]

- A. In addition to any other provisions contained in this chapter for site plans, site plans for all new commercial and industrial buildings and for all additions to commercial and industrial buildings in excess of 2,000 square feet shall be approved by the Town Board prior to the issuance of a building permit. Where, by the terms of this chapter, a site plan is required in connection with any use or structure, such site plan shall be submitted coincident with an application for a building permit or special exception, as the case may be. The Administrator shall forthwith circulate the site plan for comment by the Town Plan Commission and any other Town officer who may have a responsibility for or interest in an aspect of the development.
- B. Within 30 days of submittal, the Administrator shall transmit the site plan along with all pertinent comment to the Plan Commission for its consideration. Except as required in connection with a special exception, no public notice and hearing is required for site plan consideration, but such matters shall be handled in public session as part of a previously prepared agenda. All matters relating to site plan consideration shall be a public record. In cases where a site plan is submitted in connection with an application for a special exception, public notice and hearing is required. Site plan approval shall require formal action of the Town Board.

§ 525-80. Contents.

A site plan required to be submitted by the terms of this chapter shall contain the following elements, where applicable:

- A. Statements of ownership and control of the proposed development.
- B. Statement describing in detail the character and intended use of the development.

- C. 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 boundaries of the project, any existing streets, buildings, watercourses, easements and section lines; exact location of all buildings and structures; access and traffic flow; off-street parking and off-street loading areas; recreation facilities' locations; and access of utilities and points of utility hookups.
- D. Tabulations of total gross acreage in the project and the percentages thereof proposed to be devoted to the various uses.
- E. Tabulations showing the derivation of numbers of off-street parking and loading spaces and total project density in dwelling units per gross acre.
- F. Architectural definitions for buildings in the development; exact number of dwelling units, sizes and types, together with typical floor plans of each type.
- G. Storm drainage and sanitary sewage plans.
- H. 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 Town that such common facilities will not become a future liability for the Town.
- I. Plans for signs, if any.
- J. 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 herein.
- K. Such additional data, maps, plans or statements as may be required for the particular use or activity involved or as the applicant, Zoning Administrator or Plan Commission may believe is pertinent.

§ 525-81. Site plan fee. [Amended by Ord. No. 2008-03]

Any site plan required by this article shall be accompanied by the payment of a fee as contained in the Town of Buchanan Fees and Licenses Schedule.¹⁴

ARTICLE XIII
Special Exceptions

§ 525-82. General.

A special exception is a use or structure that may not be appropriate generally or without restriction throughout a district but which, if controlled as to number, area, location or relation to neighborhood, would promote the public health, safety, welfare, comfort,

¹⁴. Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator/Clerk's office.

convenience or the general welfare. Such uses or structures may be permissible in a zoning district as a special exception only if specific provision for such use or structure is made in the district. A special exception shall not be issued for any other use or structure.

§ 525-83. Procedure.

All applications for a special exception shall be submitted to the Administrator. Where a site plan is required by the terms of this chapter it shall be submitted coincident with the application. In cases where a site plan is not required by the terms of this chapter, the application shall contain information equivalent to that required for a building permit under § 525-73. The application may also be accompanied by any other material or information necessary to demonstrate that the grant of a special exception will be in harmony with the general intent and purpose of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public interest. The Administrator shall refer all applications and accompanying materials to the Plan Commission.

§ 525-84. Public hearing. [Amended 8-17-2010 by Ord. No. 2010-03]

Upon the filing of an application for a special exception, the Plan Commission shall fix a reasonable time (not more than 45 days from the filing date) for a public hearing. A Class 2 notice, pursuant to Ch. 985, Wis. Stats., shall be published, specifying the date, time and place of hearing and the matters to come before the Plan Commission. Notice shall be mailed to parties in interest, as determined by the Plan Commission.

§ 525-85. Conduct of hearing. [Amended 8-17-2010 by Ord. No. 2010-03]

Any hearing required under this section shall be conducted as a Class A hearing or Class B hearing, as described below. Unless requested in writing by the applicant or any other party in interest as determined by the Plan Commission, a hearing required under this section shall be conducted as a Class A hearing. Any written request for a Class B hearing shall be accompanied by the payment of a fee as listed in the Town of Buchanan Fees and Licenses Schedule.¹⁵

- A. Class A hearing. A Class A hearing is an informal proceeding conducted by the Plan Commission in accordance with the following procedures:
 - (1) The Commission Chairperson shall open the hearing and make a concise statement of its scope and purposes. Appearances shall be entered on the record. Any official or employee of the Town of Buchanan and any other person may participate in the hearing. Any person desiring to participate in the hearing, whether on his or her own behalf or as an authorized agent or attorney, shall enter an appearance in person by giving his or her name and address, the name and address of the person being represented, and the capacity in which he or she is representing such person.
 - (2) Persons entering an appearance may make statements, offer evidence or ask questions concerning the matter to be heard. Such statements need not be

¹⁵. Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator/Clerk's office.

made under oath. The Chairperson shall determine the order in which people may speak and may limit the length of the presentations if it appears there will not be enough time for all who wish to speak or if presentations are unduly repetitious. Cross-examination of those who speak may not be permitted by clarifying questions of those who speak or rebuttal statements shall be permitted by the Chairperson. Statements may be submitted in oral or written form.

(3) The hearing shall be recorded by an electronic recording device.

B. Class B hearing. A Class B hearing is a formal administrative proceeding conducted by a hearing examiner in accordance with the following procedures:

(1) The hearing examiner may be an official or employee of the Town of Buchanan or a person appointed by the Town of Buchanan. The examiner may administer oaths and affirmations; issue subpoenas; receive relevant evidence; regulate the course of the hearing; and hold conferences to simplify the issues by consent of the parties. The functions of the examiner shall be performed in an impartial manner, and the examiner may at any time disqualify himself or herself for personal bias or other disqualification.

(2) Any official or employee of the Town of Buchanan and any other person may participate in the hearing. Any person desiring to participate in the hearing, whether on his or her own behalf or as an authorized agent or attorney, shall enter an appearance in person by giving his or her name and address, the name and address of any party being represented, and the capacity in which he/she or she is representing such person. Any person entering an appearance may examine and cross-examine witnesses and may present testimony and other evidence.

(3) The hearing examiner shall open the hearing and make a concise statement of its scope and purpose. Appearances shall be entered on the record. Thereafter, the parties may make opening statements which shall be confined to a brief summary or outline in clear and concise form of the evidence intended to be offered.

(4) The order of proceedings shall be the applicant proceeding first with the presentation of evidence; other interested persons or parties in support of the application; persons or parties in opposition to the application; and the Town of Buchanan Administrator's report, if any. Any party or person may conduct cross-examinations reasonably required for a full and true disclosure of the facts.

(5) The hearing examiner shall not be bound by common law or statutory rules of evidence and shall admit all testimony having reasonable probative value but shall exclude immaterial, irrelevant or unduly repetitious testimony. All evidence shall be duly offered and made part of the record. Every party or person shall be afforded an opportunity to rebut or offer countervailing evidence. Documentary evidence may be received in the form of copies or

excerpts. Parties or person intending to offer documentary evidence may be ordered by the hearing examiner to furnish copies to opposing parties in advance of the hearings for review. Documentary evidence may then be admitted in evidence, provided the authors thereof are present and available for cross-examination. Objections to evidence shall be recorded and parties shall be afforded the opportunity to make an offer of proof.

- (6) A stenographic, electronic or other record shall be made of the proceedings. Typed transcripts shall be prepared upon request and receipt of payment of reasonable costs.

§ 525-86. Conditions and safeguards.

Where by the terms of this chapter certain conditions or requirements are specified for a special exception use or structure, such conditions or requirements must be imposed by the Plan Commission. In addition to the conditions or requirements specified by the terms of this chapter, the Plan Commission may impose appropriate additional conditions or requirements as deemed necessary to ensure the proposed use or structure will serve the objectives of this chapter and promote the public health safety, comfort, convenience and general welfare. Violation of such conditions and requirements, when made part of the terms under which the special exception is granted, shall be deemed a violation of this chapter.

§ 525-87. Records and decisions.

The Plan Commission shall keep a record of its proceedings under this section, all of which shall be filed immediately as public records. All decisions under this section shall be taken by resolution in which a majority of the Plan Commission members must concur. Every final decision under this section shall be in writing accompanied by findings of fact based on the record. No special exception shall be approved unless the Plan Commission shall find:

- A. The establishment, maintenance or operation of the proposed special exception will not be detrimental or injurious to the use and enjoyment of existing uses on adjacent properties or properties in the vicinity. [Amended 8-17-2010 by Ord. No. 2010-03]
- B. The establishment, maintenance or operation of the proposed special exception use or structure, alone or in combination with other existing special exception uses and structures in the vicinity, will not cause traffic hazards.
- C. Adequate provision is made for surface water drainage, ingress and egress to the property, and off-street parking.
- D. Adequate public facilities and services are available for the proposed special exception use or structure.

§ 525-88. Appeals from Plan Commission decisions.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department or board of the municipality affected by a decision of the Plan

Commission pursuant to § 525-92.

ARTICLE XIV
Board of Adjustment

§ 525-89. Establishment of Board.

In order that the objectives of this chapter may be more fully and equitably achieved and a means for interpretation provided, there is established a Board of Adjustment (hereinafter referred to as "the Board") for the Town of Buchanan.

§ 525-90. Membership and terms of office.

- A. Board members. The Board shall consist of three members. The Town Chairperson shall appoint the members with the approval of the Town Board. The members of the Board shall all reside within the Town. The Board shall choose its own Chairperson.
- B. Terms. The terms of the first three board members appointed shall be for one, two and three years, respectively. Successors shall be appointed in such manner at the expiration of each term, and their terms of office shall be three years in all cases, beginning July 1 in the year in which they were appointed and until their successors are appointed.
- C. Vacancies. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant.
- D. Compensation. The actual and necessary expenses incurred by the Board in the performance of its duties shall be paid and allowed by the Town Board as in cases of other claims against the Town. The Town Board may also compensate the members of the Board of Adjustment and their assistants as may be authorized by the Town Board.

§ 525-91. Rules, meetings, decisions and records.

- A. Rules. The Town Board shall adopt rules for the conduct of the business of the Board of Adjustment in accordance with the provisions of this chapter. The Board may adopt further rules as necessary to carry into effect the regulations of the Town Board. No rule may be changed without the concurring vote of a majority of the Board.
- B. Meetings. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson or, in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.
- C. Records and decisions. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall

be a public record. All actions or decisions shall be taken by resolution in which the concurring vote of a majority of the members of the Board shall be necessary. Each resolution shall contain a written statement of the grounds forming the basis of such resolutions. Notice of filing of all actions and decisions shall be mailed to the parties in interest as determined by the Board.

§ 525-92. Appeals.

- A. Powers. The Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter. The Board may reverse or, affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- B. Procedures. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or the Building Inspector or other administrative officer. Such appeal shall be taken within 60 days of the order, requirement, decision or determination appealed from by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board may request the applicant to provide additional information as may be needed to determine the case.
- C. Stays. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- D. Withdrawal or amendment.
 - (1) If the applicant elects to withdraw the appeal any time before final determination is made by the Board, this fact shall be noted on the application, with the signature of the applicant attesting withdrawal. Copies of the withdrawn application shall be returned to the files of the Board, to the Building Inspector or officer and to the applicant.
 - (2) Amendment of an appeal by the applicant may be permitted at any time prior to or during the public hearing, provided that no such amendment shall be such as to make the case different from its description in the notice of public hearing. If the amendment is requested by the applicant after public notice of the hearing has been given, and such amendment is at variance with the information set forth in the public notice, the applicant shall pay an additional fee to cover the cost of amending the public notice. If the amended notice can be published within the time frame specified for the public hearing, the

hearing on the amended appeal may be held on that date, otherwise the Chairperson shall announce that the hearing originally scheduled on the case will be deferred to a future meeting, before which appropriate public notice will be given, and will state the reasons for deferral.

§ 525-93. Variances.

- A. Powers. The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest; where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship; and so that the spirit of this chapter shall be observed and substantial justice done.
- B. Requirements for a variance. In general, the power to authorize a variance from the requirements of the Zoning Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances. No variance shall be granted for actions which require an amendment to this chapter. Variances shall only be granted when the Board finds that:
 - (1) The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this chapter.
 - (2) The variance will not permit the establishment of a use which is not permitted or permissible in the district.
 - (3) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - (4) The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district.
 - (5) The hardship is not shared generally by other land or buildings in the area.
 - (6) The hardship results from the strict application of this chapter and is not the result of self-created or self-imposed circumstances.

§ 525-94. Interpretations.

The Board shall have the power to hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts.

§ 525-95. Public hearings.

- A. Time period. Upon filing with the Board an application for an appeal or variance, the Board shall fix a reasonable time (not more than 60 days from the filing date) for a public hearing.
- B. Notice of hearing. A Class 2 notice pursuant to Ch. 985, Wis. Stats., shall be published, specifying the date, time and place of the hearing and matters to come before the Board.

§ 525-96. Conduct of public hearings.

Any hearing required under this article shall be conducted by the Board in accordance with § 525-85A.

§ 525-97. Appeals from Board decisions.

Any person or persons, jointly or severally, aggrieved by any decision of the Board or any taxpayer or any officer, department, board or bureau of the municipality may, within 30 days after the filing of the decision in the office of the Board, commence an action seeking the remedy available by certiorari.

ARTICLE XV
Amendments

§ 525-98. Authority. [Amended 8-17-2010 by Ord. No. 2010-03]

The Town Board may amend the regulations and requirements of this chapter or change the district boundaries of the Official Zoning Atlas. A petition for the amendment may be made by any property owner in the area to be affected by the amendment, by the Town Board or by any member of the Town Board or Town Plan Commission.

§ 525-99. Petition and procedures. [Amended 8-17-2010 by Ord. No. 2010-03]

The petition shall be filed with the Town Administrator/Clerk, who shall immediately refer it to the Plan Commission for its consideration, report and recommendations. Procedures shall be in accordance with § 62.23(7), Wis. Stats. A petition filed by a property owner shall be accompanied by a fee as contained in the Town of Buchanan Fees and Licenses Schedule.¹⁶

ARTICLE XVI
Fees

§ 525-100. Fee schedule. [Amended 8-17-2010 by Ord. No. 2010-03]

Fees required under this chapter shall be established in the Town of Buchanan Fees and Licenses Schedule from time to time by resolution of the Town Board. No action shall be taken prior to payment of a required fee.¹⁷

ARTICLE XVII
Comprehensive Plan

[Added 4-27-2007 by Ord. No. 2007-02; amended by Ord. No. 2008-02]

§ 525-101. Statutory authority; adoption of plan.

A. Pursuant to the provisions of §§ 66.1001 and 60.22, Wis. Stats., the Buchanan Town Board does ordain its authority to prepare and adopt a comprehensive plan as

16. Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator/Clerk's office.

17. Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator/Clerk's office.

defined in §§ 66.1001(1)(a) and 66.1001(2), Wis. Stats.

- B. Having completed the Town of Buchanan Comprehensive Plan in accordance with the requirements stipulated in Wisconsin's Smart Growth Law, 1999 Act 9, and defined in § 66.1001, Wis. Stats., and as recommended for adoption by the Plan Commission on March 12, 2007, and posted in accordance with Class 1 public notice requirements, the Buchanan Town Board hereby adopts the Town of Buchanan Comprehensive Plan as the guide for future land use and development decisions in the Town.
- C. All programs and actions of the Town that affect land use shall be consistent with the Comprehensive Plan.

§ 525-102. Definition.

A comprehensive plan is a plan for development that recognizes the physical, economic, social, political, aesthetic and related factors of the community. As required by the Wisconsin Smart Growth legislation, the Comprehensive Plan addresses nine required plan elements: issues and opportunities; housing; transportation; agricultural, natural and cultural resources; economic development; land use; intergovernmental coordination and implementation.

§ 525-103. Power and amendments.

The Town Board may amend and update the Town of Buchanan Comprehensive Plan, including associated maps. An application for an amendment to the Comprehensive Plan may be made by any property owner.

§ 525-104. Procedures and fees.

A petitioner requesting an amendment must submit an application on forms provided by the Town Administrator/Clerk. The Town Administrator/Clerk shall immediately refer the application to the Plan Commission for its consideration, report and recommendations. Procedures shall be in accordance with § 66.1001, Wis. Stats. An application shall be accompanied by the payment of a fee as contained in the Town of Buchanan Fees and Licenses Schedule.¹⁸

18. Editor's Note: The Fees and Licenses Schedule is on file in the Town Administrator/Clerk's office.