

MAUSTON - LEMONWEIR
EXTRATERRITORIAL ZONING ORDINANCE

ARTICLE 9: PROCEDURES AND ADMINISTRATION

TABLE OF CONTENTS

1.901 PURPOSE..... 9-1

1.902 AMENDMENTS TO THE TEXT OF THESE ZONING REGULATIONS..... 9-1

 (1) Purpose..... 9-1

 (2) Who May Initiate a Request for Amendment of this Ordinance 9-1

 (3) Application Requirements..... 9-1

 (4) Review by Zoning Administrator 9-1

 (5) Review and Recommendation by the Committee..... 9-2

 (6) Review and Action by the City Council 9-3

 (7) Review and Action by the Town Board 9-4

 (8) Joint Publication..... 9-4

 (9) Effect of Denial 9-4

 (10) Fee..... 9-4

1.903 AMENDMENTS TO THE OFFICIAL ZONING MAPS..... 9-5

 (1) Purpose..... 9-5

 (2) Who May Initiate a Request for Amendment of the Zoning Maps..... 9-5

 (3) Application Requirements..... 9-5

 (4) Review by Zoning Administrator 9-5

 (5) Review and Recommendation by the Committee..... 9-6

 (6) Review and Action by the City Council 9-7

 (7) Review and Action by the Town Board 9-8

 (8) Effect and Denial 9-8

 (9) Fee..... 9-8

 (10) Floodland District Boundary Changes Limited 9-9

1.904 ZONING PERMITS FOR PERMITTED USES 9-9

 (1) Purpose..... 9-9

 (2) General Requirement 9-9

 (3) Application Requirements..... 9-9

 (4) Review By Zoning Administrator 9-9

 (5) Decision 9-10

 (6) Issuance and Posting 9-10

 (7) Expiration..... 9-10

 (8) Termination of an Approve Permit..... 9-10

 (9) Effect on Other Permits..... 9-10

 (10) Fees 9-10

1.905 ZONING PERMITS FOR CONDITIONAL USES 9-11

 (1) Purpose..... 9-11

 (2) Limited Conditional Uses..... 9-11

 (3) Initiation of Request for Approval of a Conditional Use..... 9-11

 (4) Application Requirements..... 9-11

 (5) Review by Zoning Administrator and Site Plan Review Committee..... 9-12

 (6) Review and Action by the Joint Committee 9-13

 (7) Effect of Denial 9-14

 (8) Effect of Approval..... 9-14

(9) Effect on Other Permits..... 9-14

(10) Time Limits on the Development of Conditional Use..... 9-14

(11) Discontinuing an Approved Conditional Use..... 9-15

(12) Change of Ownership..... 9-15

(13) Termination of an Approved Conditional Use 9-15

(14) Notice to the DNR..... 9-15

(15) Use Now Regulated as Conditional Uses Which Were Approved as Legal Land Uses
(permitted by right or as conditional uses) Prior to the Effect Date of this Ordinance... 9-15

(16) Minor Changes..... 9-16

(17) Fees 9-16

1.906 ZONING PERMITS FOR TEMPORARY USES..... 9-16

(1) Purpose..... 9-16

(2) General Requirement 9-17

(3) Application Requirements..... 9-17

(4) Review by Zoning Administrator 9-17

(5) Decision 9-17

(6) Posting..... 9-18

(7) Expiration..... 9-18

(8) Termination of an Approved Permit..... 9-18

(9) Effect on Other Permits..... 9-18

(10) Fee..... 9-18

1.907 SIGN PERMITS 9-18

(1) Purpose..... 9-18

(2) General Requirements 9-18

(3) Application Requirements..... 9-19

(4) Review by Zoning Administrator 9-19

(5) Basis for Granting 9-19

(6) Decision 9-20

(7) Posting..... 9-20

(8) Illegal Signs and Void Permits 9-20

(9) Revocation of Permits 9-20

(10) Effect on Other Permits..... 9-20

(11) Fee..... 9-21

1.908 SITE PLAN APPROVALS..... 9-21

(1) Purpose..... 9-21

(2) Initiation of Request for Approval of a Site Plan 9-21

(3) Application Requirements..... 9-22

(4) Review by Zoning Administrator 9-26

(5) Review by Site Plan Review Committee..... 9-26

(6) Review by the Joint Committee..... 9-27

(7) Initiation of Land Use or Development Activity 9-28

(8) Modification of an Approved Site Plan..... 9-28

(9) Sunset Clause 9-28

(10) Fee..... 9-29

1.909 ZONING CERTIFICATES OF OCCUPANCY 9-29

(1) Purpose..... 9-29

(2) Land Uses and Development Requiring a Certificate of Occupancy..... 9-29

(3) Issuance of Certificate of Occupancy 9-29

(4) Certificate of Occupancy for Legal Nonconforming Uses..... 9-30

(5) Termination of a Certificate of Occupancy 9-30

(6) Fee..... 9-30

1.910 VARIANCES..... 9-31

(1) Purpose..... 9-31

(2) Initiation of Request for Approval of a Variance 9-31

(3) Application Requirements 9-31

(4) Review by Zoning Administrator 9-31

(5) Review and Determination by Zoning Board of Appeals 9-32

(6) Effect of Denial 9-34

(7) Limited Effect of Variance..... 9-34

(8) Stay of Proceedings..... 9-34

(9) Notice to the DNR..... 9-34

(10) Fee..... 9-35

1.911 INTERPRETATIONS 9-35

(1) Purpose..... 9-35

(2) Initiation of Request for an Interpretation 9-35

(3) Application Requirements 9-35

(4) Review by Zoning Administrator 9-36

(5) Standards for Review of Requested Interpretations..... 9-37

(6) Effect of a Favorable Land Use Interpretation 9-38

(7) Limitations on Favorable Land Use Interpretation 9-38

(8) Fee..... 9-39

1.912 APPEALS OF ZONING DECISIONS 9-39

(1) Purpose..... 9-39

(2) Initiation of Request for Review of Zoning Decision..... 9-39

(3) Time Limit for filing an Appeal 9-39

(4) Application Requirements..... 9-39

(5) Review by City Administrator and Zoning Administrator 9-37

(6) Review and Action by the Mauston Zoning Board of Appeals 9-40

(7) Effect of Denial 9-40

(8) Limited Effect of a Favorable Ruling on an Appeal..... 9-41

(9) Fee..... 9-41

1.913 RESERVED FOR FUTURE USE 9-41

1.914 PLANNED DEVELOPMENT DISTRICT PROCEDURES 9-41

(1) Purpose..... 9-41

(2) Extent of Flexible Development Standards 9-42

(a) Permitted Location 9-42

(b) Flexible Development Standards..... 9-42

(c) Requirements to Depict all Aspects of Development 9-42

(3) Initiation of Request for Approval of a Planned Development 9-43

(4) Application Requirements..... 9-43

(5) Step 1: Pre-application Conference 9-43

(6) Step 2: Concept Plan 9-43

(a) Submitted Packet..... 9-43

(b) Review by Administrator 9-44

(c) Review by Joint Committee 9-44

(d) Non-binding Effect 9-44

(7) Step 3: General Development Plan (GDP) 9-44

(a) Purpose..... 9-44

(b) Submitted Packet..... 9-45

(c) Review by Administrator 9-46

(d) Review by Joint Committee 9-46

(8) Step 4: Precise Implementation Plan (PIP)..... 9-47

(a) Purpose..... 9-47

(b) Submitted Packet..... 9-47

(c) Review by Zoning Administrator 9-48

(d) Process for Review..... 9-49

(e) Developmental Time Table 9-49

(9) Review and Action by the Common Council 9-49

(10) Minor Changes 9-49

(11) Review and Action by the Town Board 9-49

(12) Fee..... 9-50

1.931 ADMINISTRATION BY CITY 9-50

1.932 ZONING ADMINISTRATOR 9-50

(1) Designation 9-50

(2) Duties 9-50

1.933 JOINT COMMITTEE..... 9-51

1.934 SITE PLAN REVIEW COMMITTEE..... 9-51

(1) Establishments 9-51

(2) Duties 9-51

1.935 RESERVED FOR FUTURE USE 9-52

1.936 ZONING BOARD OF APPEALS 9-52

(1) Establishment and Membership 9-52

(2) Organization..... 9-52

(3) Powers..... 9-52

(4) Procedures..... 9-53

(5) Wetland and Floodland Mapping disputes 9-54

1.937 RESERVED FOR FUTURE USE 9-54

1.938 FEES 9-54

(1) Fees for Procedures Requested by a Private Party..... 9-54

(2) Fees for Procedures Requested by the City of Mauston 9-54

(3) Payment of Fees 9-54

(4) Reimbursable Costs..... 9-55

1.939 RESERVED FOR FUTURE USE 9-55

1.940 VIOLATIONS AND PENALTIES 9-55

(1) Violation of this Ordinance 9-55

(2) Penalties 9-56

(3) Abatement of Violation 9-56

(4) Hazardous Condition by Violation of this Ordinance 9-56
(5) Non-Hazardous Condition Caused by Violation of this Ordinance..... 9-56
(6) Cost of Abatement..... 9-56

ARTICLE 9: PROCEDURES AND ADMINISTRATION**1.901 PURPOSE**

The purpose of this Article is to establish the procedural requirements for zoning text amendments, zoning map amendments, conditional use review and approval, temporary use review and approval, sign permits, site plan review and approval, certificates of occupancy, variances, zoning provision interpretations by the Zoning Administrator, and appeals of zoning provision interpretations to the Zoning Board of Appeals.

1.902 AMENDMENTS TO THE TEXT OF THESE ZONING REGULATIONS

- (1) **PURPOSE:** Subject to the requirements of Section 62.23(7a)(f) Wis. Stats., the purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed amendments to the text of this Ordinance, except amendments to the Official Zoning Map.
- (2) **WHO MAY INITIATE A REQUEST FOR AMENDMENT OF THIS ORDINANCE:** Proceedings to amend this Ordinance may be initiated by any of the following methods:
 - (a) By an application by any member of the general public;
 - (b) By a recommendation of the Plan Commission of Mauston or Lemonweir;
 - (c) By action of the Committee; or
 - (d) By action of the City Council or the Town Board
- (3) **APPLICATION REQUIREMENTS:** All applications from the general public for proposed amendments to this Ordinance shall be submitted to the Zoning Administrator or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
 - (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) **Current Text:** A copy of the portion of the current provisions of this Ordinance which are proposed to be amended, with said provisions clearly indicated in a manner which is clearly reproducible with a photocopier.
 - (c) **Proposed Text:** A copy of the text which is proposed to replace the current text.
 - (d) **Explanation:** Written justification for the proposed text amendment, consisting of the reasons why the Applicant believes the proposed text amendment is in harmony with the recommendation of the Comprehensive Master Plan, particularly as evidenced by compliance with the standards set out in subsection 1.902(5)(e) below.
- (4) **REVIEW BY ZONING ADMINISTRATOR:**
 - (a) The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall so notify Applicant and forward the application to the Committee and the Mauston Plan Commission for further action.
 - (b) The Zoning Administrator shall review and evaluate the application and shall comment in writing to the Committee and the Mauston Plan Commission on the

proposed text amendment provided in the application, taking into consideration the review standards of subsection 1.902(5)(e) below. The Zoning Administrator's written comments shall be submitted to the Committee and the Mauston Plan Commission on or before the Public Hearing described below. A copy thereof shall also be provided to the Applicant.

- 1.902(4)** (c) The Zoning Administrator shall not refer the application to the Committee or to the Mauston Plan Commission, and no one shall place the application on the Committee agenda until the Zoning Administrator, or designee, has certified that the application is complete. However, an item may be placed on an agenda as a "discussion-only" item, with the permission of the Chairman of the Committee, even though a completed application has not yet been submitted.

(5) REVIEW AND RECOMMENDATION BY THE COMMITTEE:

- (a) **Submission to Committee Required:** Pursuant to Sections 62.23(7a)(f) and (c) Wis. Stats., no amendment shall be made to this Ordinance without approval of the Committee, in participation with the Mauston Plan Commission.
- (b) **Public Hearing:** Pursuant to Section 62.23(7a)(d) Wis. Stats., the Committee shall hold a public hearing on the proposed amendment. The Committee shall schedule a reasonable time and place for a public hearing, within 45 days after the Administrator determines that the application is complete. The Applicant may appear in person, by agent, and/or by attorney.
- (c) **Notice:** Notice of the proposed amendment and the public hearing shall conform to the requirements of Section 62.23(7a)(d) Wis. Stats. Said notice shall contain a description of the proposed text change. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant, to the Members of the Mauston Plan Commission, and to the Town Clerk. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
- (d) **Formal Decision:** Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant and granted by the Committee), the Committee, after consultation with the Mauston Plan Commission, (i) shall make a written report, and/or (ii) shall state in the formal minutes of its meeting, its findings and its recommendations regarding the application. Said report and/or minutes shall include formal findings of facts developed and approved by the Committee concerning the standards of subsection (e) below.
- (e) **Standards of Review:** The following issues shall be considered by the Committee in making its decision:
1. Whether the proposed text amendment is in harmony with the recommendations of the Comprehensive Master Plan, with specific reference wherever applicable to the text of the Comprehensive Plan, and/or whether the Comprehensive Plan needs to be amended either (i) to change the recommendations of the Plan or (ii) to promulgate a recommendation which was omitted from the Plan.
 2. Whether the proposed text amendment furthers the purposes of this Ordinance as outlined in Section 1.103.
 3. Whether the proposed text amendment furthers the purposes of the general Article in which the amendment is proposed to be located.
 4. Whether the proposed text amendment furthers the purposes of the specific Section in which the amendment is proposed to be located.

- 1.902(5)(e)**
5. Whether any new, different or unusual factors have arisen that are not properly addressed in the current zoning text. The following are examples of such factors:
 - a. The provisions of this Ordinance should be brought into conformity with the Comprehensive Plan. (If this is a factor related to the proposed amendment, note pertinent portions of the Comprehensive Plan.);
 - b. A change has occurred in the land market, or other factors have arisen which require a new form of development, a new type of land use, or a new procedure to meet said change(s);
 - c. New methods of development or providing infrastructure make it necessary to alter this Ordinance to meet these new factors;
 - d. Changing governmental finances require amending this Ordinance in order to meet the needs of the government in terms of providing and affording public services.
 6. Whether the proposed amendment maintains the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts.
 7. Whether the potential public benefits of the proposed amendment outweigh any and all potential adverse impacts of the proposed amendment.
- (f) **Failure to Act:** If the Committee fails to make a report within 60 days after the public hearing (and in the absence of a Applicant-approved extension per 1.902(5)(d), above), then the application shall be deemed to be denied.
- (g) **Voting Requirements:** A favorable vote of four (4) members of the Committee shall be required to approve the proposed amendment. If the Committee approves the amendment, the amendment shall be referred to the City Council and the Town Board for further action. If the Committee does not approve the amendment, the application shall be deemed to be denied and this procedure shall terminate. The Committee's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment. (*Amended per Ord. 931*)
- (6) **REVIEW AND ACTION BY THE CITY COUNCIL:**
- (a) **Submission to Council Required:** Pursuant to Section 62.23(7a) Wis. Stats., no amendment shall be made to this Ordinance without approval of the City Council.
 - (b) **Public Hearing:** Pursuant to Section 62.23(7a)(e) Wis. Stats., the City Council shall hold a separate public hearing on the proposed amendment, unless the public hearing held pursuant to section (5)(b) above was held jointly by the Committee and the Council. The Council shall schedule a reasonable time and place for a public hearing, within 45 days after the approval by the Committee is referred to the Council. The Applicant may appear in person, by agent, and/or by attorney.
 - (c) **Notice:** Notice of the proposed amendment and the public hearing shall conform to the requirements of Section 62.23(7a)(d) Wis. Stats. Said notice shall contain a description of the proposed text change. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant, and to the Town Clerk. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.

- 1.902(6)** (d) **Formal Decision:** Within 30 days after the public hearing (or within an extension of said period approved in writing by the Applicant), the City Council shall make its decision. Failure to act within 30 days shall be deemed to be a denial of the amendment. If the City Council wishes to make changes in the proposed text amendment, then the procedure set forth in subsection (5) above shall again be followed prior to Council action. If the Council does not approve the amendment, the application shall be deemed to be denied and this procedure shall terminate. The Common Council's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.
- (7) REVIEW AND ACTION BY THE TOWN BOARD:**
- (a) **Submission to Board Required:** No amendment shall be made to this Ordinance without approval of the Town Board.
- (b) **Public Hearing:** The Board may, but is not required, to hold a public hearing, pursuant to such procedure as the Board may impose when electing to hold a public hearing.
- (c) **Formal Decision:** Within 45 days after the Committee's decision is referred to the Township, (or within an extension of said period approved in writing by the Applicant), the Town Board shall make its decision. Failure to act within 45 days shall be deemed to be a denial of the amendment. If the Board wishes to make changes in the proposed text amendment, then the procedure set forth in subsections (5) and (6) above shall again be followed prior to Board action. The Board's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.
- (8) JOINT PUBLICATION:** If approved by both the City Council and the Town Board, the new Ordinance shall be jointly published by the City and the Town, and the new Ordinance shall take effect upon publication, unless the new Ordinance specifies a different effective date. *(Recreated per Ord. 931)*
- (9) EFFECT OF DENIAL:** No application which has been denied (in whole or in part) shall be resubmitted for a period of 12 months from the date of said denial, unless the Administrator, or designee, first determines that either (i) substantial and material new evidence has arisen or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application. *(Renumbered per Ord. 931)*
- (10) FEE:** *(Renumbered per Ord. 931)*
- (a) All applicants shall pay an application fee when requesting an amendment to the text, and such fee shall be established by resolution of the City Council. See, Section 1.938.
- (b) Application fees do not include, and are in addition to, any building permit fees which may be established by the Township's Building Code, or any other fees which may be imposed for driveways, water hook-up and sewer hook-up.
- (c) A double application fee shall be charged if an application is submitted after the Applicant has committed an act or omission for which the Applicant now seeks an amendment. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
- (d) All applicants shall reimburse the City for the time spent by Staff and consultants

in reviewing and processing the application, pursuant to Section 1.938(4).

- (e) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered “complete” and ready for consideration until all fees have been paid.

1.903 AMENDMENTS TO THE OFFICIAL ZONING MAPS

- (1) **PURPOSE:** Subject to the requirements of Section 62.23(7a)(f) Wis. Stats., the purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed amendments to the Official Extraterritorial Zoning Maps.
- (2) **WHO MAY INITIATE A REQUEST FOR AMENDMENT OF THE ZONING MAPS:** Proceedings to amend the Official Zoning Maps may be initiated by any of the following:
 - (a) By an application by any member of the general public;
 - (b) By a recommendation of the Plan Commission of Mauston or Lemonweir;
 - (c) By action of the Committee; or
 - (d) By action of the City Council or Town Board.
- (3) **APPLICATION REQUIREMENTS:** All applications from the general public for proposed amendments to the Maps shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
 - (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) **Ownership Map:** A map of the subject property showing all lands for which the zoning is proposed to be amended, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as they appear on the current tax records. Said map shall clearly indicate the current zoning of the subject property and its environs. Said map and all its parts and attachments shall be submitted in a form which is not larger than 11" by 17," which is clearly reproducible with a photocopier, and which is at a scale that is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
 - (c) **Overall Map:** A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole.
 - (d) **Explanation:** Written justification for the proposed map amendment, consisting of the reasons why the Applicant believes the proposed map amendment is in harmony with recommendations of the Master Plan, particularly as evidenced by compliance with the standards set out in 1.903(5)(e) below.
- (4) **REVIEW BY ZONING ADMINISTRATOR:**
 - (a) The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall

- so notify Applicant and forward the application to the Committee and the Mauston Plan Commission for further action.
- 1.903(4)**
- (b) The Zoning Administrator shall review and evaluate the application and shall comment in writing to the Committee and the Mauston Plan Commission on the proposed text amendment provided in the application, taking into consideration the review standards of subsection 1.903(5)(e) below. The Zoning Administrator’s written comments shall be submitted to the Committee and the Mauston Plan Commission on or before the Public Hearing described below. A copy thereof shall also be provided to the Applicant.
 - (c) The Zoning Administrator shall not refer the application to the Committee or to the Mauston Plan Commission and no one shall place the application on the Committee agenda until the Zoning Administrator, or designee, has certified that the application is complete. However, an item may be placed on an agenda as a “discussion-only” item, with the permission of the Chairman of the Committee, even though a completed application has not yet been submitted.
- (5) REVIEW AND RECOMMENDATION BY THE COMMITTEE:**
- (a) **Submission To Committee Required:** Pursuant to Section 62.23(7a)(f) and (c) Wis. Stats., no amendment shall be made to the Official Extraterritorial Zoning Maps without approval of the Committee, in participation with the Mauston Plan Commission.
 - (b) **Public Hearing:** Pursuant to Section 62.23(7a)(d) Wis. Stats., the Committee shall hold a public hearing on the proposed amendment. The Committee shall schedule a reasonable time and place for a public hearing, within 45 days after the Administrator determines that the application is complete. The Applicant may appear in person, by agent, and/or by attorney.
 - (c) **Notice:** Notice of the proposed amendment and the public hearing shall conform to the requirements of Section 62.23(7a)(d) Wis. Stats. Said notice shall contain a description of the subject property and the proposed change in zoning. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant; to all property owners within 200 feet of the boundaries of the subject property as identified in 1.903(3)(a), above; to the Members of the Mauston Plan Commission; and to the Town Clerk. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
 - (d) **Formal Decision:** Within 60 days after the public hearing (or within an extension of said period approved in writing by the Applicant), the Committee, after consultation with the Mauston Plan Commission (i) shall make a written report, and/or (ii) shall state in the formal minutes of its meeting, its findings and its recommendations regarding the application. Said report and/or minutes shall include formal findings of facts developed and approved by the Committee concerning the standards of subsection (e) below.
 - (e) **Standards of Review:** The following issues shall be considered by the Committee in making its decision:
 1. Whether the proposed map amendment is in harmony with the recommendations of the Comprehensive Master Plan, with specific reference wherever applicable to the text of the Comprehensive Plan, and/or whether the Comprehensive Plan needs to be amended either (i) to change the recommendations of the Plan or (ii) to promulgate a recommendation which was omitted from the Plan.
 2. Whether the proposed map amendment furthers the purposes of this Ordinance as outlined in Section 1.103 and the applicable rules and regulations of the DNR and FEMA.

- 1.903(5)(e)**
3. Whether any new, different or unusual factors have arisen that are not properly addressed on the current zoning maps. The following are examples of such factors:
 - a. The designation of the Map should be brought into conformity with the Comprehensive Plan;
 - b. A change has occurred in the land market, or other factors have arisen which require a new form of development or a new type of land use;
 - c. A mistake was made in mapping on the Official Zoning Map. (e.g. an area is developing in a manner and purpose different from that for which it is mapped.) NOTE: If this reason is cited, it must be demonstrated that the discussed inconsistency between actual land use and designated zoning is not intended, as the Committee may intend to stop an undesirable land use pattern from spreading;
 - d. Factors have changed (such as the availability of new data, the presence of new roads or other infrastructure, additional development, annexation, or other zoning changes) making the subject property more appropriate for a different zoning district;
 - e. Growth patterns or rates have changed, thereby creating the need for an Amendment to the Official Zoning Map.
 4. Whether the proposed amendment to the Official Zoning Map maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
 5. Whether the potential public benefits of the proposed amendment outweigh any and all potential adverse impacts of the proposed amendment.
- (f) **Failure To Act:** If the Committee fails to make a report within 60 days after the public hearing (and in the absence of an Applicant-approved extension), then the application shall be deemed to be denied.
- (g) **Voting Requirements:** A favorable vote of four (4) members of the Committee shall be required to approve the proposed amendment. If the Committee approves the amendment, the amendment shall be referred to the City Council for further action. If the Committee does not approve the amendment, the application shall be deemed to be denied and this procedure shall terminate. The Committee's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.
- (6) REVIEW AND ACTION BY THE CITY COUNCIL:**
- (a) **Submission to Council Required:** Pursuant to Section 62.23(7a) Wis. Stats., no amendment shall be made to the Official Extraterritorial Zoning Maps without approval of the City Council.
 - (b) **Public Hearing:** Pursuant to Section 62.23(7a)(e) Wis. Stats., the Council shall hold a separate public hearing on the proposed amendment, unless the public hearing held pursuant to section (5)(b) above was held jointly by the Committee and the City Council. The Council shall schedule a reasonable time and place for a public hearing, within 45 days after the approval by the Committee is referred to the City Council. The Applicant may appear in person, by agent, and/or by attorney.
 - (c) **Notice:** Notice of the proposed amendment and the public hearing shall conform

to the requirements of Section 62.23(7a)(d) Wis. Stats. Said notice shall contain a description of the proposed change. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant, and to the Town Clerk. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.

- (d) **Formal Decision:** Within 30 days after the public hearing (or within an extension of said period approved in writing by the Applicant), the City Council shall make its decision. Failure to act within 30 days shall be deemed to be a denial of the amendment. If the Council wishes to make changes in the proposed text amendment, then the procedure set forth in subsection (5) above shall again be followed prior to Council action. If the Council does not approve the amendment, the application shall be deemed to be denied and this procedure shall terminate. The Council's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.

1.903 (7) REVIEW AND ACTION BY THE TOWN BOARD:

- (a) **Submission to Board Required:** No amendment shall be made to the Official Extraterritorial Zoning Maps without approval of the Town Board.
- (b) **Public Hearing:** The Board may, but is not required, to hold a public hearing, pursuant to such procedure as the Board may impose when electing to hold a public hearing.
- (c) **Formal Decision:** Within 45 days after the Committee's decision is referred to the Township, (or within an extension of said period approved in writing by the Applicant), the Town Board shall make its decision. Failure to act within 45 days shall be deemed to be a denial of the amendment. If the Board wishes to make changes in the proposed amendment, then the procedure set forth in subsections (5) and (6) above shall again be followed prior to Board action. The Board's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.
- (8) **EFFECT OF DENIAL:** No application which has been denied (in whole or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, unless the Administrator first determines that either (i) substantial and material new evidence has arisen or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.
- (9) **FEE:**
- (a) All applicants shall pay an application fee when requesting an amendment to the Maps, and such fee shall be established by resolution of the City Council. See, Section 1.938.
- (b) Application fees do not include, and are in addition to, any building permit fees which may be established by the Township's Building Code, or any other fees which may be imposed for driveways, water hook-up and sewer hook-up.
- (c) A double application fee shall be charged if an application is submitted after the Applicant has committed an act or omission for which the Applicant now seeks an amendment. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
- (d) All applicants shall reimburse the City for the time spent by Staff and consultants in reviewing and processing the application, pursuant to Section 1.938(4).

- (e) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered “complete” and ready for consideration until all fees have been paid.

- (10) **FLOODLAND DISTRICT BOUNDARY CHANGES LIMITED:** Mauston and the Township shall not permit changes to the floodland district boundaries that are inconsistent with the purpose and intent of any applicable Shoreland-Wetland Zoning Ordinance or Floodplain Zoning Ordinance, or that are in conflict with the applicable rules and regulations of the DNR and FEMA.

1.904 ZONING PERMITS FOR PERMITTED USES

- (1) **PURPOSE:** The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of requests for zoning permits.
- (2) **GENERAL REQUIREMENT:** After the effective date of this Ordinance, a zoning permit shall be obtained from the City before any building or structure is located, relocated, built, erected, enlarged, moved, reconstructed, altered, or extended within the Extraterritorial Zoning District, or before the use of any building, structure or property is commenced, changed or altered within the Extraterritorial Zoning District. Permits for uses authorized only by conditional use shall be issued pursuant to the procedures of Section 1.905 below. Permits for temporary uses shall be issued pursuant to the procedures of Section 1.906 below. Permits for signs shall be issued pursuant to the procedures of Section 1.907 below. All other zoning permits shall be issued pursuant to the following procedures.

- 1.904 (3) **APPLICATION REQUIREMENTS:** All applications for permits shall be submitted to the Zoning Administrator or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
 - (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s), developer(s) and contractor(s) being used on the project.
 - (b) **Property Info:** Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; the address of the subject site; the tax parcel number for the site; the “annexation parcel number” established by the Boundary Agreement; the type of structure; the existing and proposed operation or use of the structure or site; the number of employees; and the zoning district within which the subject site lies.
 - (c) **Survey:** Plat of survey, and a reduced map not larger than 11" by 17," prepared by a land surveyor registered in Wisconsin (or at the City’s discretion, a scaled drawing) showing the location, boundaries, dimensions, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements; streets and other public ways; off-street parking, loading areas, and driveways; existing highway access restrictions; high water, channel floodway, and floodplain boundaries; and existing and proposed street, side, and rear yards.
 - (d) **Other:** Additional information as may be required by the Zoning Administrator.
- (4) **REVIEW BY ZONING ADMINISTRATOR:** The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements

of section (3) above, or if he determines that additional information is needed to determine compliance with this Ordinance, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall review the application and shall render a written decision.

- 1.904 (5) DECISION:** A zoning permit shall be granted or denied, in writing, by the Zoning Administrator within thirty (30) days of either (i) the filing of a complete application or (ii) the filing of additional information requested by the Zoning Administrator, whichever is later. In making a decision, the Zoning Administrator may seek input from other City and Township Staff, consultants, the Site Plan Review Committee, the Mauston and/or Lemonweir Plan Commissions and/or the Joint Committee before rendering a decision. The Zoning Administrator's written decision shall be provided to the applicant and to the Township Administrator. If a decision is not rendered by the Administrator within said 30-day period, the application shall be deemed to have been denied, and the Applicant may either re-apply or appeal the denial to the Board of Appeals. (See, Section 1.912).
- (6) ISSUANCE AND POSTING:** Upon granting a zoning permit, the Zoning Administrator shall issue a written ZONING PERMIT to the applicant, who shall post such permit in a conspicuous place at the site while performing any work under the permit. The Zoning Administrator shall also notify the Township Administrator of the issuance of the Permit.
- (7) EXPIRATION:** The permit shall expire within four (4) months after issuance unless work equal to 10% of the dollar amount of the project has been completed, and the permit shall expire within eighteen (18) months after issuance if the structure for which a permit issued is not 75% completed as measured by the dollar amount of the project. Once a permit has expired, the applicant shall reapply for a zoning permit before recommencing work on the structure. Any permit issued in conflict with the provisions of the Ordinance shall be null and void.
- (8) TERMINATION OF AN APPROVED PERMIT:** Any zoning permit found not to be in compliance with the terms of this Ordinance shall be considered in violation of this Ordinance and shall be subject to all applicable procedures and penalties. A zoning permit may be revoked for such a violation by majority vote of 4 members of the Committee, following notice to the land owner and following a hearing before the Committee. Furthermore, at any time after approval of a zoning permit, upon request by the Committee, the Applicant must appear before the Committee at a time and date set by the Committee, and the Applicant must demonstrate to the satisfaction of the Committee that the Applicant has met all general and specific requirements of the zoning permit and this Ordinance for the subject property.
- (9) EFFECT ON OTHER PERMITS:** Once a zoning permit is granted, no other permits (e.g. Site Plan approval, Certificate of Occupancy, Driveway Permit, Building Permit, etc.) shall be issued for any development which does not comply with all requirements of the granted zoning permit and this Ordinance.
- (10) FEES:**
- (a)** All applicants shall pay a zoning permit fee which shall be established by resolution of the City Council. (See, Section 1.938).
 - (b)** Zoning permit fees do not include, and are in addition to, building permit fees established by the Township's Building Code, and other fees which may be

imposed for driveways, water hook-up and sewer hook-up.

- (c) A double fee shall be charged if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
- (d) All applicants shall reimburse the City for the time spent by Staff and consultants in reviewing and processing the application, pursuant to Section 1.938(4).
- (e) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered “complete” and ready for consideration until all fees have been paid.

1.905 ZONING PERMITS FOR CONDITIONAL USES

- (1) **PURPOSE:** The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses, including limited conditional uses.
- (2) **LIMITED CONDITIONAL USES:** Limited conditional uses are the same as regular conditional uses except that limited conditional uses are not permanent, but instead, they are limited in time or duration because of
 - (a) their particularly specialized nature, or
 - (b) their particular locations within a district, or
 - (c) the peculiar unique relationships or needed compatibility of uses to involved individuals, or
 - (d) any other reason(s) the Committee deems specially relevant and material to limit the scope thereof.
- (3) **INITIATION OF REQUEST FOR APPROVAL OF A CONDITIONAL USE:**
 - (a) **Who May Apply:** Proceedings for approval of a site plan shall be initiated by application of the owner(s) of the subject property, or their legally authorized representative(s).
 - (b) **Pre-Application Meeting:** Before submitting an application, the Applicant may first meet with the Site Plan Review Committee and/or other designated City Staff to discuss preliminary concepts and plans for the development. Guidance will be provided to the Applicant on technical requirements and procedures, and a timetable for project review may be discussed.
 - (c) **Exceptions to Procedure:** The Site Plan Review Committee may waive compliance with some of the following application requirements once it learns of the nature and extent of the proposed project. Any such waiver shall be in writing, and may be revoked or amended at any time, for any reason, by the Site Plan Review Committee or by the Joint Committee.
- (4) **APPLICATION REQUIREMENTS:** All applications for proposed conditional uses shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
 - (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s), developer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) **Ownership Map:** A map of the subject property showing all lands for which the conditional use is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the tax records. Said map shall clearly indicate the current zoning of the subject property and its environs.

Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.

- (c) **Overview Map:** A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole.
- (d) **Description of Proposed Uses:** A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations.
- (e) **Site Plan:** A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of Section 1.908(3). If the proposed conditional use is a group development (per Section 1.414), a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan per Section 1.908(3).
- (f) **Explanation:** Written justification for the proposed conditional use consisting of the reasons why the Applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in Subsection 1.905(6)(e) below.

1.905 (5) REVIEW BY ZONING ADMINISTRATOR AND SITE PLAN REVIEW COMMITTEE: The proposed conditional use application shall be reviewed by the Zoning Administrator, or designee, and any site plan shall be reviewed by the Site Plan Review Committee (section 1.934) as follows:

- (a) The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (4) above (as may be amended by the Site Plan Review Committee pursuant to section (3)(c) above). If the Zoning Administrator determines that the application does not fulfill the requirements of section (4) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (4), he shall so notify Applicant and forward the application for further action.
- (b) If a site plan is required, the Administrator shall refer the site plan to the Site Plan Review Committee. The Site Plan Review Committee shall review and evaluate the application, and may meet with the applicant and may require additional information from the applicant to fully evaluate the proposed project and its impact upon the area. Upon completion of its review, the Site Plan Review Committee shall comment in writing to the Joint Committee on the proposed application, taking into consideration the review standards of subsection 1.905(6)(e) below. The Site Plan Review Committee's written comments shall be submitted to the Joint Committee on or before the Public Hearing described below. A copy thereof shall also be provided to the Applicant.
- (c) If a site plan is not required, the Zoning Administrator shall review and evaluate the application and shall comment in writing to the Joint Committee on the proposed application, taking into consideration the review standards of subsection 1.905(6)(e) below. The Zoning Administrator's written comments shall be submitted to the Joint Committee on or before the Public Hearing described below. A copy thereof shall also be provided to the Applicant.
- (d) The Zoning Administrator shall not refer the application to the Joint Committee and shall not place the application on the Committee's agenda until (i) the Zoning Administrator, or designee, has certified that the application is complete and (ii) the application, if it includes a site plan, has been reviewed by the Site Plan

Review Committee. However, an item may be placed on the agenda as a “discussion-only” item, with the permission of the Chairman of the Committee, even though a completed application has not yet been submitted and even though the site plan has not yet been reviewed by the Site Plan Review Committee.

1.905 (6) REVIEW AND ACTION BY THE JOINT COMMITTEE:

- (a) **Referral to Joint Committee:** Once the application is referred to the Joint Committee, the Committee may request further information and/or additional reports from the Zoning Administrator, the Applicant, and/or from any other source. The Committee shall take final action on the application pursuant to the following procedure.
- (b) **Public Hearing:** The Committee shall schedule a reasonable time and place for a public hearing, within 45 days after the Administrator determines that the application is complete. The Applicant may appear in person, by agent, and/or by attorney.
- (c) **Notice:** Notice of an application for a conditional use and the public hearing thereon shall be given as follows. A Class 1 notice, under ch. 985 Wis. Stats., shall be published containing (i) a description of the subject property, (ii) a description of the proposed use(s), (iii) the identity of the owner of the subject property, (iv) the identity of the applicant and any intended future owner (if different from the current owner and applicant), and (v) the date and location of the public hearing. In addition, at least ten (10) days before said public hearing, the City Clerk shall mail an identical notice to the Applicant and to all property owners within 200 feet of the boundary of the subject property as identified in 1.90594(b) above. Failure to mail said notice or failure to meet the time requirements herein, provided it is unintentional and provided substantial compliance has occurred, shall not invalidate proceedings under this Section. *(Amended per Ord. 982)*
- (d) **Formal Decision:** Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant), the Committee shall issue a decision either (i) in the form of a written resolution, and/or (ii) in the formal minutes of its meeting. Its decision shall include formal findings of facts concerning the standards of subsection (e) below. In making its decision the Committee,
 - 1. may approve the conditional use as originally proposed, or
 - 2. may approve the proposed conditional use with such modifications and conditions as it deems necessary and appropriate after consideration of the standards of review set forth below and consideration of the recommendations of the Site Plan Review Committee, the Zoning Administrator, outside experts, its own members, and any other source, or
 - 3. may deny approval of the proposed conditional use.
- (e) **Standard of Review:** The following issues shall be considered and addressed by the Committee in making its decision:
 - 1. Whether the proposed conditional use (the use in general, independent of its location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Mauston Comprehensive Plan, this Ordinance, and any other plan, program, or ordinance adopted, or under consideration by the City.
 - 2. Whether the proposed conditional use (in its proposed specific location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Mauston Comprehensive Plan, this Ordinance, and any other

- plan, program, or ordinance adopted, or under consideration by the City.
3. Whether the proposed conditional use, in its proposed location and as depicted on the required site plan, will cause a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Ordinance, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.
 4. Whether the proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
 5. Whether the proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.
 6. Whether the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use (as identified in Subsections 1. through 5., above), after taking into consideration the Applicant's proposal, including the Applicant's suggestions to ameliorate any adverse impacts.
- (f) **Voting Requirements:** A favorable vote of four (4) members of the Committee shall be required to approve the proposed conditional use. If the Committee does not approve the conditional use, the application shall be deemed to be denied and this procedure shall terminate. The Committee's approval of the requested conditional use shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed conditional use. *(Amended per Ord. 984)*
- (7) **EFFECT OF DENIAL:** No application which has been denied (in whole or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, unless the Zoning Administrator first determines that either (i) substantial and material new evidence has arisen or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.
- (8) **EFFECT OF APPROVAL:** Except for conditional use approvals for temporary uses, a certified copy of the authorizing resolution, containing a legal description of the property subject to the conditional use and containing any specific requirements of approval, shall be recorded with the Register of Deeds office. Also, the Zoning Administrator shall issue a Zoning Permit, with a copy of the authorizing resolution attached, to the Applicant.
- 1.905 (9) **EFFECT ON OTHER PERMITS:** Once a conditional use is granted, no other permits (e.g. Site Plan approval, Certificate of Occupancy, Building Permit, etc.) shall be issued for any development which does not comply with all requirements of the granted conditional use and this Ordinance.
- (10) **TIME LIMITS ON THE DEVELOPMENT OF CONDITIONAL USE:** The start of construction of any and all conditional uses shall be initiated within 365 days of approval

by the Committee and shall be operational within 730 days of said approval, unless a different deadline is established by the terms of the Conditional Use. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this Section, “operational” shall be defined as the granting of a Certificate of Occupancy for the conditional use. Prior to such a revocation, the Applicant may request an extension of this period. Said request shall require formal approval by the Committee and shall be based upon a showing of acceptable justification (as determined by the Committee).

- (11) **DISCONTINUING AN APPROVED CONDITIONAL USE:** Any and all conditional uses which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.
- 1.905 (12) **CHANGE OF OWNERSHIP:** All requirements of the approved conditional use shall be continued regardless of ownership of the subject property. Modification, alteration, or expansion of any approved conditional use, without approval by the Committee, shall be considered a violation of this Ordinance and shall be grounds for revocation of said conditional use approval.
- (13) **TERMINATION OF AN APPROVED CONDITIONAL USE:** Any conditional use found not to be in compliance with the terms of this Ordinance shall be considered in violation of this Ordinance and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of four (4) members of the Committee, following the procedures outlined in Subsections 1.905(3) through(7) above. Furthermore, at any time after approval of a conditional use, upon request by the Committee, the Applicant must appear before the Committee at a time and date set by the Committee and the Applicant must demonstrate to the satisfaction of the Committee that the Applicant has met all general and specific conditional use requirements for the subject property.
- (14) **NOTICE TO THE DNR:** The Committee shall transmit a copy of each application for a conditional use for conservancy regulations in the Shoreland-Wetland, Floodway, Floodplain Conservancy, or Floodway Fringe Overlay Zoning Districts to the Wisconsin Department of Natural Resources (DNR) for review and comment at least ten (10) days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to conditional uses for shoreland-wetland conservancy regulations or to floodland regulations shall be transmitted to the DNR within ten (10) days of the date of such decision.
- (15) **USES NOW REGULATED AS CONDITIONAL USES WHICH WERE APPROVED AS LEGAL LAND USES (permitted by right or as conditional uses) PRIOR TO THE EFFECTIVE DATE OF THIS ORDINANCE:** A use now regulated as a conditional use which was approved as a legal land use—either permitted by right or as a conditional use—prior to the Effective Date of this Ordinance shall be considered as a legal, conforming land use so long as the previously approved conditions of use and site plan are followed. Any modification of the previously approved conditions of use or site plan shall require submission of a new application for a conditional use pursuant to the foregoing procedures.

- (16) **MINOR CHANGES:** Prior to the issuance of a Certificate of Occupancy, the Zoning Administrator, with the consent of either the Town Administrator or the DPW, is authorized to approve minor variations and minor changes to any previously-granted Conditional Use, without compliance with the notice and public hearing procedures of subsection (6) above, provided (i) the variations do not violate any of the minimum standards of this Ordinance and (ii) the spirit and intent of the original Conditional Use is preserved. All such variations shall be approved in writing and, whenever the variation changes any term or condition of a written resolution previously recorded with the Register of Deeds, the variation shall also be recorded.

Rationale: The intent of this section is to avoid the expensive and time-consuming process of a public hearing and public notice whenever a minor change is needed on a site plan or a conditional use. During construction, problems often arise which require minor changes to site plans or conditional uses. It is expensive, time-consuming, unnecessary and wasteful for the Applicant and the Joint Committee to go through the whole Conditional Use process just to approve a minor change.

(Created per Ord. 931)

- (17) **FEES:** *(Renumbered per Ord. 931)*
- (a) All applicants shall pay a non-refundable conditional use application fee which shall be established by resolution of the City Council. See, Section 1.938.
 - (b) Conditional use application fees do not include, and are in addition to, building permit fees established by the Township's Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
 - (c) A double fee shall be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
 - (d) All applicants shall reimburse the City for the time spent by Staff and consultants in reviewing and processing the application, pursuant to Section 1.938(4).
 - (e) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered "complete" and ready for consideration until all fees have been paid.

1.906 ZONING PERMITS FOR TEMPORARY USES

- (1) **PURPOSE:**
- (a) The purpose of this Section is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed temporary uses.
 - (b) Temporary uses are those uses that have the potential to create undesirable impacts on nearby properties if allowed to develop simply under the general requirements of this Ordinance. In addition to such potential, temporary uses also have the potential to create undesirable impacts on nearby properties that potentially cannot be determined except on a case by case basis. In order to prevent this from occurring, all temporary uses are required to meet certain procedural requirements applicable only to temporary uses, in addition to the general requirements of this Ordinance and the requirements of the zoning district in which the subject property is located.
 - (c) Land uses which fail to meet one of the requirements for temporary uses of Section 1.413 may be reviewed as a conditional use.

- (2) **GENERAL REQUIREMENT:** After the effective date of this Ordinance, a Temporary Use permit shall be obtained before any temporary use is located, relocated, built, erected, enlarged, moved, reconstructed, altered, or commenced in the Extraterritorial Zoning District. No public hearing is required to develop a temporary use, however, a demonstration that the developer proposes to meet all temporary use requirements of this Article must be made at the time of application. Furthermore, no Certificate of Occupancy shall be issued for any development that does not comply with all requirements of this Ordinance (See, Section 1.909). Any temporary use found not to be in compliance with the terms of this Ordinance shall be considered in violation of this Code and shall be subject to all applicable procedures and penalties.
- (3) **APPLICATION REQUIREMENTS:** All applications for proposed temporary uses shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
- (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) **Site Map:** A map of the subject property showing all lands for which the temporary use is proposed, and all other lands within 200 feet of the boundaries of the subject property. Said map shall clearly indicate the current zoning of the subject property and its environs. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
 - (c) **Area Map:** A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole.
 - (d) **Description:** A written description of the proposed temporary use describing the type of activities, buildings, and structures proposed for the subject property and their general locations.
 - (e) **Site Plan:** The Zoning Administrator may require a full or partial site plan of the subject property. If required, said site plan shall conform to any and all the requirements of Section 1.908(3) as determined by the Zoning Administrator.
- 1.906 (4) **REVIEW BY ZONING ADMINISTRATOR:** The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, or if he determines that additional information is needed to determine compliance with this Ordinance, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall review the application and shall render a written decision.
- (5) **DECISION:** A temporary use permit shall be granted or denied, in writing, by the Zoning Administrator within thirty (30) days of either (i) the filing of a complete application or (ii) the filing of additional information requested by the Zoning Administrator, whichever is later. In making a decision, the Zoning Administrator may seek input from other City Staff, consultants, the Site Plan Review Committee, the Plan Commissions, and/or the Committee, before rendering a decision. If a decision is not rendered by the Administrator within said 30-day period, the application shall be deemed to have been denied, and the Applicant may either re-apply or appeal the denial to the Board of Appeals. (See, Section 1.912).

- (6) **POSTING:** The applicant shall post such permit in a conspicuous place at the site while performing any work under the permit.
- (7) **EXPIRATION:** The temporary use permit shall expire within four (4) months after issuance unless work equal to 10% of the dollar amount of the project has been completed, and the permit shall expire within six (6) months after issuance if the use for which a permit issued is not 75% completed as measured by the dollar amount of the project. Once a permit has expired, the applicant shall reapply for a zoning permit before recommencing work on the use. Any permit issued in conflict with the provisions of the Ordinance shall be null and void.
- (8) **TERMINATION OF AN APPROVED PERMIT:** Any temporary use permit found not to be in compliance with the terms of this Ordinance shall be considered in violation of this Ordinance and shall be subject to all applicable procedures and penalties. A zoning permit may be revoked for such a violation by the Zoning Administrator, following notice to the land owner. Furthermore, at any time after approval of a temporary use permit, upon request by the Zoning Administrator or the Committee, the Applicant must appear before the Zoning Administrator or Committee at a time and date set by the Administrator or Committee, and the Applicant must demonstrate to the satisfaction of the Administrator or Committee that the Applicant has met all general and specific requirements of the permit and this Ordinance for the subject property.
- 1.906 (9) **EFFECT ON OTHER PERMITS:** Once a temporary use permit is granted, no other permit (e.g. Site Plan approval, Certificate of Occupancy, Building Permit, etc.) shall be issued for any development which is inconsistent with the granted temporary use permit and this Ordinance.
- (10) **FEE:**
- (a) All applicants shall pay a permit fee which shall be established by resolution of the City Council.
 - (b) Temporary use permit fees do not include, and are in addition to, building permit fees established by the Township's Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
 - (c) A double fee shall be charged by the Zoning Administrator if the temporary use is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
 - (d) All applicants shall reimburse the City for the time spent by Staff and consultants in reviewing and processing the application, pursuant to Section 1.938(4).
 - (e) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered "complete" and ready for consideration until all fees have been paid.

1.907 **SIGN PERMITS**

- (1) **PURPOSE:** The purpose of this Section is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of a permit for the erection, alteration or relocation of signs.
- (2) **GENERAL REQUIREMENT:** Unless specifically exempted by Article 8, no sign shall be erected, altered, or relocated within the Extraterritorial Zoning District after the

effective date of this Ordinance until a sign permit has been issued therefore.

- (3) **APPLICATION REQUIREMENTS:** All applications for sign permits shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. The applicant may include all signs on one premise under one application and one permit. A complete application shall contain all of the following:
- (a) The name and address of the applicant, and the owner of the lot upon which the sign will be located, if different from the applicant.
 - (b) The name and address of the proposed sign owner, if different from the applicant.
 - (c) The name and address of the architect(s), professional engineer(s) and contractor(s) being used on the project.
 - (d) A legible, colored, scaled drawing of each proposed sign, listing the height, width, total square footage, method of attachment, and method of illumination of each proposed sign, and also listing the materials to be used in making, erecting and attaching the sign.
 - (e) A legible, scaled drawing of the subject lot showing
 - 1. the location of each proposed sign's proposed location on the building and lot,
 - 2. the location of each existing sign's current location on the building and lot,
 - 3. the location of all Overlay Zoning District Boundaries (as per Article 3) on the lot,
 - 4. the location of all rights-of-way, easements, driveways, parking areas and drainage facilities on the lot
 - 1.907(3) (f) The subject property's Standard Zoning District designation (as per Article 2).
 - (g) The "sign purpose" of each proposed sign (as per Section 1.805(2)).
 - (h) The "sign type" of each proposed sign (as per Section 1.805(3)).
 - (i) The total area of all signs on the subject property, both before and after the installation of the proposed sign. (See, Appendix 11, Sign Inventory Worksheet).
 - (j) Written proof of consent from the property owner upon which the sign(s) are to be erected and maintained. (Not required if the applicant is the property owner).
 - (k) Proof of payment of the appropriate sign permit fee, when required.
 - (l) Any other item of information that may be reasonably required by the Zoning Administrator for the purpose of application evaluation, including (but not limited to) a site plan for the subject property (per Section 1.908(3)).
- (4) **REVIEW BY ZONING ADMINISTRATOR:** The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, or if he determines that additional information is needed to determine compliance with this Ordinance, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall review the application and shall render a written decision.
- (5) **BASIS FOR GRANTING:** In reviewing a sign permit application, the Zoning Administrator shall consider the following factors in deciding whether or not to grant the issuance of a sign permit.
- (a) Whether the sign is compatible with the surroundings, pursuant to the objectives of proper design and zoning criteria.
 - (b) Whether the sign is designed, installed, and maintained to meet the sign users'

- needs while at the same time promoting the surrounding environment desired by the general public.
- (c) Whether the sign is designed, constructed, installed, or maintained in such a manner that it does not endanger public safety or traffic safety.
 - (d) Whether the sign is legible, readable, and visible in the circumstances in which it is to be used.
 - (e) Whether the sign, including size, height, illumination and location, is respectful of reasonable rights of other advertisers whose messages are displayed in the area.
 - (f) Whether the sign is in compliance with the provisions of this Ordinance.
- (6) **DECISION:** A Sign permit shall be granted or denied, in writing, by the Zoning Administrator within thirty (30) days of either (i) the filing of a complete application or (ii) the filing of additional information requested by the Zoning Administrator, whichever is later. In making a decision, the Zoning Administrator may seek input from other City Staff, consultants, the Site Plan Review Committee, the Plan Commissions and/or the Committee before rendering a decision. If a decision is not rendered by the Administrator within said 30-day period, the application shall be deemed to have been denied, and the Applicant may either re-apply or appeal the denial to the Board of Appeals. (See, Section 1.912).
- (7) **POSTING:** The applicant shall post such permit in a conspicuous place at the site while performing any work under the permit.
- 1.907 (8) **ILLEGAL SIGNS AND VOID PERMITS:** Any sign found not to be in compliance with the terms of this Ordinance shall be considered in violation of this Ordinance and shall be subject to all applicable procedures and penalties. No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.
- (9) **REVOCAION OF PERMIT:**
- (a) **Noncompliance:** Upon Class I notice and after a public hearing conducted by the Committee, any permit may be revoked by the Committee in the event that the applicant has failed to comply with the provisions of these regulations or any conditions that may have accompanied the permit at the time of granting.
 - (b) **Installation Delay:** Any sign permit issued by the Zoning Administrator shall be null and void and automatically revoked in the event that installation of the sign has not been commenced within 180 days from the date of issuance of the permit, and if the sign has not been completed within 240 from the date of issuance of the permit. If work authorized by such permit is suspended or abandoned for a period of 90 days any time after the work is commenced, the original permit shall become null and void. A new permit shall first be obtained to complete the work, and a new permit fee shall be required.
 - (c) **Removal:** Upon revocation of a permit, the sign(s) subject to such revoked permit, whether free-standing, overhanging or projecting, shall be removed by the permittee within 45 days of such revocation.
 - (d) **Fee Refund:** Revocation shall not entitle the licensee to a total or partial reimbursement of license fees paid.
- (10) **EFFECT ON OTHER PERMITS:** Once a sign permit is granted, no other permit (e.g. Site Plan approval, Certificate of Occupancy, Building Permit, etc.) shall be issued for any development which is inconsistent with the granted sign permit and this Ordinance.

- (11) **FEE:**
- (a) All applicants shall pay a sign permit fee which shall be established by resolution of the City Council. Any sign permit fee paid hereunder for any one sign may not be assigned or transferred to any other sign or modified sign face or sign structure.
 - (b) Sign permit fees do not include, and are in addition to, building permit fees established by the Township's Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
 - (c) A double fee shall be charged by the Zoning Administrator if work is started on the sign before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
 - (d) All applicants shall reimburse the City for the time spent by Staff and consultants in reviewing and processing the application, pursuant to Section 1.938(4).
 - (e) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered "complete" and ready for consideration until all fees have been paid.

1.908 SITE PLAN APPROVALS

- (1) **PURPOSE:** The purpose of this Section is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this Section are designed to ensure that proposed land use and development activities comply with the requirements of this Ordinance. Specifically, this Section requires that the initiation of all development activity for principal structures of non-residential and multifamily residential developments (including building permits, zoning certificates, occupancy permits for a change of use of an existing lot or structure where there is contemplated a site plan revision, clear cutting, grading or filling) require the approval of site, building and operational plans by the Joint Committee before the building, occupancy, and zoning permits can be issued—except, however, that development activity associated with an approved final plat of subdivision or certified survey map for single-family and/or duplex/twin home dwelling units, and development activity associated with the full and complete implementation of a project approved within the PIP phase of the Planned Unit Development District [PUD] is exempt from this requirement.
- (2) **INITIATION OF REQUEST FOR APPROVAL OF A SITE PLAN:**
- (a) **Who May Apply:** Proceedings for approval of a site plan shall be initiated by application of the owner(s) of the subject property, or their legally authorized representative(s).
 - (b) **Pre-Application Meeting:** Before submitting an application, the Applicant may first meet with the Site Plan Review Committee (section 1.934) and/or other designated Staff to discuss preliminary concepts and plans for the development. Guidance will be provided to the Applicant on technical requirements and procedures, and a timetable for project review may be discussed.
 - (c) **Exceptions to Procedure:** The Site Plan Review Committee may waive compliance with some of the following application requirements once the Committee learns of the nature and extent of the proposed project. Any such waiver shall be in writing, and may be revoked or amended at any time, for any reason, by the Site Plan Review Committee or by the Joint Committee.

- 1.908 (3) APPLICATION REQUIREMENTS:** All applications for approval of proposed site plans shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete site plan application shall contain the following:
- (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) **Written Description** of the intended use describing in reasonable detail the following:
 - 1. Existing zoning district(s) (and proposed zoning district(s) if different);
 - 2. Land use plan map designation(s);
 - 3. Site Evaluation Worksheet (Appendix 4);
 - 4. Current land uses present on the subject property;
 - 5. Proposed land uses for the subject property (per Article 4);
 - 6. Projected number of residents, employees, and/or daily customers;
 - 7. Proposed amount of dwelling units, floor area, impervious surface area, and landscape surface area, and resulting site density, floor area ratio, impervious surface area ratio, and landscape surface area ratio;
 - 8. Operational considerations relating to hours of operation, projected normal and peak water usage, sanitary sewer or septic loadings, and traffic generation;
 - 9. Operational considerations relating to potential nuisance creation pertaining to noncompliance with the performance standards addressed in Article 5 including street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. If no such nuisances will be created (as indicated by complete and continuous compliance with the provisions of Article 5), then the statement “The proposed development shall comply with all requirements of Article 5.” shall be provided;
 - 10. Exterior building and fencing materials (Sections 1.529 and 1.533);
 - 11. Possible future expansion and related implications for 1-10, above, and;
 - 12. Any other information pertinent to adequate understanding by the Committee of the intended use and its relation to nearby properties.
 - (c) **Location Map** at 11” x 17” showing the subject property and illustrating its relationship to the nearest street intersection. (A photocopy of the pertinent section of the City’s Land Use Plan Map with the subject property clearly indicated shall suffice to meet this requirement.)
 - (d) **Property Site Plan Drawing** (and reduction at 11” x 17”) which includes:
 - 1. A title block which indicates the name, address and phone/fax number(s) of the current property owner and/or agent(s) (developer, architect, engineer, planner) for project;
 - 2. The date of the original plan and the latest date of revision to the plan;
 - 3. A north arrow and a graphic scale. Said scale shall not be smaller than one inch equals 100 feet;
 - 4. A legal description of the subject property;
 - 5. All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
 - 6. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;

- 1.908(3)(d)**
7. All required building setback lines;
 8. All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;
 9. The location and dimension (cross-section and entry throat) of all access points onto public streets;
 10. The location and dimension of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus required by this Ordinance;
 11. The location and dimension of all loading and service areas on the subject property and labels indicating the dimension of such areas;
 12. The location of all outdoor storage areas and the design of all screening devices;
 13. The location, type, height, size and lighting of all signage on the subject property;
 14. The location, height, design/type, illumination power and orientation of all exterior lighting on the subject property—including the clear demonstration of compliance with Section 1.514;
 15. The location and type of any permanently protected green space areas;
 16. The location of existing and proposed drainage facilities; and
 17. In the legend, data for the subject property:
 - a. Lot Area;
 - b. Floor Area;
 - c. Floor Area Ratio;
 - d. Impervious Surface Area;
 - e. Building Coverage;
 - f. Building Height.
- (e) **Detailed Landscaping Plan** of the subject property, at the same scale as the main plan (and reduction at 11" x 17"), showing the location of all required bufferyard and landscaping areas, and existing and proposed Landscape Point fencing and berm options for meeting said requirements. The Landscaping Plan shall demonstrate complete compliance with the requirements of Article 6. (NOTE: the individual plant locations and species, fencing types and heights, and berm heights need to be provided.)
- (f) **Grading and Erosion Control Plan** at the same scale as the main plan (and reduction at 11" x 17") showing existing and proposed grades, including retention walls and related devices, and erosion control measures per the approval of the DPW.
- (g) **Elevation Drawings** of proposed buildings or proposed remodeling of existing buildings showing finished exterior treatment shall also be submitted, with adequate labels provided to clearly depict exterior materials, texture, color and overall appearance. Perspective renderings of the proposed project and/or photos of similar structures may be submitted, but not in lieu of adequate drawings showing the actual intended appearance of the buildings. (Refer to Section 1.529).
- (h) **Certified Survey** may be required in instances where the Administrator or the Committee determines that compliance with setback requirements may be difficult. The survey shall be prepared by a registered land surveyor and shall depict property lines and proposed buildings, structures, and paved areas.
- (i) **Detailed Site Analysis Map** is required if the proposed site has any natural resource protection areas (RPA). If so, the following submission and review process is to be followed:

1. **Purpose:** The detailed site analysis required by this Article is designed to provide the clear identification of RPA's on a site which is proposed for development. The detailed survey work required to identify these areas accurately on a map is not required prior to the initiation of development concept plans for an area. A detailed site analysis shall be performed in conjunction with required land division documents or development site plans for any and all properties containing RPA's.
2. **Exceptions to Procedure:** The Site Plan Review Committee may waive compliance with some of the following requirements once the Site Plan Review Committee learns of the nature and extent of the proposed project. Any such waiver shall be in writing, and may be revoked or amended at any time, for any reason, by the Site Plan Review Committee or by the Joint Committee.
3. **Description:** The detailed site analysis shall be shown on a map of the subject property which depicts the location of all protected natural resource areas, as defined by the provisions of this Article. The detailed site analysis shall meet the following requirements:
 - a. **Scale:** A minimum scale of one inch equals 200 feet shall be used.
 - b. **Topography:** Topographic information is not required for any property which does not contain steep slopes (as designated on the Official Zoning Map). For such properties, topographic information with a minimum contour interval of two feet is required.
 - c. **Specific Natural Resource Areas:** All natural resource areas which require protection under the provisions of this Ordinance shall be accurately outlined and clearly labeled. Particular care as to clarity shall be taken in areas where different resource types overlap with one another.
 - d. **Development Pads:**
 - (i) All site disruption (including selective cutting) proposed to occur within permanently protected natural resource areas shall be limited to development pads. Development pads shall be depicted on the detailed site analysis map, site plans required for development permits, and the recorded Plat of Subdivision or Certified Survey Map.
 - (ii) Beyond visible damage to natural resources, vegetation, soil, and drainage patterns, site disruption activities shall not compact soil covering tree roots, or otherwise damage trees beyond the area from which trees are to be removed. All trees with calipers exceeding three (3) inches, whose canopies are located adjacent to disturbed areas, which die within a period of five years following site disruption shall be replaced by the owner with a three (3) inch caliper tree of the same type (canopy or understory). Therefore, care shall be taken to ensure that equipment and actions associated with permitted site disruption activities are limited to the area in which they are permitted. The use of snow fences and other barriers to outline development pads during disruption activity is strongly recommended to limit the extent of inadvertent

compaction or other disturbance of earth, and collision damage to vegetation intended for protection. Such barriers should be placed no closer to protected trees than a point on the ground directly under their outer canopy edge.

- e. **Mitigation Areas:** All mitigation areas related to the provisions of this Ordinance shall be depicted on the detailed site map with notations provided which describe the mitigation techniques employed.
- 1.908(3)(j) 4. **Required Procedure for Submission and Review:**
- a. **Required Timing of Submission:** The detailed site analysis map shall be submitted to the Zoning Administrator for initial review prior to, or concurrently with, the submission of the Preliminary Plat of Subdivision or the Certified Survey Map; or if the proposed development does not involve a land division then submittal is required as an attachment to a required site plan. A concept plan of the proposed development may be submitted prior to the submission of the detailed site analysis map; however, in no way does the acceptance and/or general approval of a concept plan indicate the approval of natural resource feature locations. A detailed site analysis map prepared for the subject property which has been previously approved by Staff may be submitted for any subsequent development activity on the site. However, modifications to such a previously approved map will be required if the analysis is no longer accurate for the subject property.
 - 1.908(3)(j)(4) b. **Review by City Staff:** City Staff shall review the submitted detailed site analysis map for general compliance with the following data sources:
 - 1). The Official Zoning Map;
 - 2). Applicable USGS 7.5 minute topographic maps for the City of Mauston and its environs;
 - 3). Air photos of the subject property;
 - 4). USGS Quads and other sources of topographic information;
 - 5). Applicable FEMA and related floodplain maps;
 - 6). Applicable Federal and State Wetland Inventory Maps;
 - 7). The City of Mauston Comprehensive Master Plan; and
 - c. **Response From City Staff:** The Zoning Administrator shall provide the petitioner with a written evaluation of the submitted detailed site analysis map which shall indicate the acceptance by City Staff; or the need for further analysis work, for discussion with the petitioner and/or Staff-recognized experts, or for a joint site visit.
 - d. **Modification of Detailed Site Analysis Map:** If necessary, as determined by City Staff, revised detailed site analysis maps shall be prepared and submitted for review by City Staff, until a version is deemed acceptable. Staff review of the detailed site analysis may be appealed to the Board of Zoning Appeals as a matter of Ordinance interpretation. (See Section 1.936.)
 - e. **Acceptance of Detailed Site Analysis Map:** Upon notification of acceptance by City Staff (or, in case of appeal, by

determination of the Board of Zoning Appeals), the petitioner may proceed with the submittal of necessary development documents.

5. **Integration of Detailed Site Analysis Information with Required Development and/or Land Division:** Information contained on the detailed site analysis map relating to the boundaries of permanently protected green space areas (including natural resource protection areas, other permanently protected green space areas, and required mitigation areas), shall be clearly depicted on any and all site plans required as a precondition for application for any development permit (such as a Building Permit) and on any proposed Plat of Subdivision or Certified Survey Map.

- (4) **REVIEW BY ZONING ADMINISTRATOR:** The application shall be reviewed by the Zoning Administrator, or designee, as follows:

- (a) The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above (as may be amended by the Site Plan Review Committee pursuant to section (2)(c) above). If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall so notify Applicant and forward the application to the Site Plan Review Committee for further action.
- (b) The Zoning Administrator shall not refer the application to the Committee and shall not place the application on the Committee agenda until (i) the Zoning Administrator, or designee, has certified that the application is complete and (ii) the application has been reviewed by the Site Plan Review Committee. However, an item may be placed on the agenda as a “discussion-only” item, with the permission of the Chairman of the Committee, even though a completed application has not yet been submitted and even though the site plan has not yet been reviewed by the Site Plan Review Committee.

- 1.908 (5) **REVIEW BY SITE PLAN REVIEW COMMITTEE:** The proposed site plan shall be reviewed by the Site Plan Review Committee as follows:

- (a) The Site Plan Review Committee, or designee, shall also determine whether the application is complete and fulfills the requirements of this Ordinance. If the Site Plan Review Committee determines that the application is not complete or does not fulfill the requirements of this Ordinance, it shall return the application to the Applicant with a brief statement identifying how the application is inadequate. This paragraph recognizes that, even though the Zoning Administrator has determined that the Application is complete in a general sense, the Site Plan Review Committee may conclude that the Application is not complete as to specific details and may request additional information.
- (b) If the Site Plan Review Committee determines that the application is complete, the Site Plan Review Committee shall review the application, shall evaluate and comment on the site plan, taking into consideration the appropriate review standards, and shall work with the Applicant to revise and improve the site plan, where necessary in the discretion of the Site Plan Review Committee, to obtain the best possible project, consistent with the intent and purpose of this Ordinance.

The Site Plan Review Committee shall work with the Applicant until such time as either (i) the Applicant and Committee reach agreement on all aspects of the

plan, or (ii) the Applicant and Committee agree that they have differences of opinion regarding the plan which should be resolved by the Joint Committee.

- (c) When the Site Plan Review Committee has completed its work with the Applicant, the Site Plan Review Committee shall certify that its work is complete, and shall submit a written recommendation to the Joint Committee regarding the site plan. No placement of the site plan on any agenda for action shall occur unless the Site Plan Review Committee has completed its work. However, an item may be placed on an agenda as a “discussion-only” item, with the permission of the Chairman of the Joint Committee, even though the Site Plan Review Committee has not yet finished its work.

1.908 (6) REVIEW BY THE JOINT COMMITTEE:

- (a) **Referral to Joint Committee:** Once the application is referred to the Joint Committee, the Committee may request further information and/or additional reports from the Zoning Administrator, the Applicant, the Site Plan review Committee, expert consultants and/or from any other source. The Joint Committee shall take final action on the application pursuant to the following procedure.
- (b) **Formal Decision:** Within 60 days after referral to the Joint Committee (or within an extension of said period requested in writing by the Applicant and granted by the Committee), the Committee shall issue a decision either (i) in the form of a written resolution, and/or (ii) in the form of written minutes of its meeting. Its decision shall include formal findings of fact concerning the standards of subsection (c) below. In making its decision the Committee,
1. may approve the site plan as originally proposed, or
 2. may approve the site plan with such modifications and/or conditions as it deems necessary and appropriate after consideration of the standards of review set forth below and consideration of the recommendations of the Site Plan Review Committee, the Zoning Administrator, outside experts, its own members, and any other source, or
 3. may deny approval of the site plan.
- If additional modifications and/or conditions are required, the Committee may withhold approval of the Site Plan until revisions depicting such additional modifications and/or conditions are submitted to the satisfaction of the Committee, or its designee. Such modifications and/or conditions shall be made a part of the official record, and development activity on the subject property may not proceed until the revised site plan has been prepared, submitted and approved by the Committee or its designee. The Committee’s approval of the site plan shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed site plan.
- (c) **Standard of Review:** In reviewing the site plan the Committee shall make findings on each of the following criteria to determine whether the submitted site plan shall be approved, approved with modifications and/or conditions, or denied:
1. Whether all standards of the Zoning Ordinance and other applicable Township, State and Federal regulations are met.
 2. Whether the public health and safety is endangered.
 3. Whether adequate public facilities and utilities are provided.
 4. Whether adequate control of storm water and erosion are provided, and the disruption of existing drainage patterns and vegetative cover is minimized insofar as is practical.
 5. Whether appropriate traffic controls and parking are provided.
 6. Whether appropriate landscaping and open space areas are provided.

7. Whether the appearance of structures maintains a consistency of design, materials, colors, and arrangement with nearby properties of similar use, which comply with the general architectural guidelines provided in subsections a. through e. below:
 - a. Exterior construction materials shall be consistent with Section 1.529.
 - b. Exterior building design or appearance shall not be of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
 - c. Exterior building design or appearance shall not be so identical with nearby buildings so as to create excessive monotony or drabness.
 - d. Exterior building design or appearance shall not be constructed or faced with an exterior material which is aesthetically incompatible with other nearby buildings or which presents an unattractive appearance to the public and surrounding properties.
 - e. Exterior building, sign, and lighting design or appearance shall not be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area.
 - f. The basic intent of the Zoning Ordinance is fulfilled to ensure attractive, efficient, and appropriate development of land in the community.
8. Whether reasonable steps have been taken to avoid depreciating effects on surrounding property and the natural environment.

1.908(6) (d) **Voting Requirements:** A favorable vote of four (4) members of the Committee shall be required to approve the proposed site plan.. The Committee's approval of the site plan shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed site plan.

(7) **INITIATION OF LAND USE OR DEVELOPMENT ACTIVITY:** Except with the written permission of the Zoning Administrator, absolutely no land use or development activity, including site clearing, grubbing, or grading shall occur on the subject property prior to the approval of the required site plan. Any such activity prior to such approval shall be a violation of this Ordinance and shall be subject to all applicable enforcement mechanisms and penalties. Any permission granted by the Zoning Administrator shall not be interpreted or construed, directly or indirectly, as an approval of the proposed development by the Committee. Moreover, any permission granted by the Zoning Administrator can be revoked or modified by the Zoning Administrator or the Committee at any time prior to final approval by the Committee of the development.

(8) **MODIFICATION OF AN APPROVED SITE PLAN:** Any and all variations between development and/or land use activity on the subject property and the approved site plan is a violation of this Ordinance. An approved site plan shall be revised and approved via the procedures of this Section, so as to clearly and completely depict any and all proposed modifications to the previously approved site plan, prior to the initiation of said modifications.

(9) **SUNSET CLAUSE:** All buildings and structures approved on a site plan shall be fully developed within two (2) years of final approval of the site plan, unless a different date is

established by the Committee in the writing. After the expiration of such period, no additional site plan development shall be permitted on undeveloped portions of the subject property. The Committee may extend this period, as requested by the Applicant, through the conditional use process following a public hearing.

(10) FEE:

- (a) All applicants shall pay a site plan review fee which shall be established by resolution of the City Council. This fee shall include the reimbursable costs incurred by Mauston. See, Section 1.938.
- (b) Site plan review fees do not include, and are in addition to, building permit fees established by the Township's Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
- (c) A double fee shall be charged by the Zoning Administrator if work is started on a project before a site plan review is applied for and approved. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
- (d) All applicants shall reimburse the City for the time spent by Staff and consultants in reviewing and processing the application, pursuant to Section 1.938(4).
- (e) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered "complete" and ready for consideration until all fees have been paid.

1.909 ZONING CERTIFICATES OF OCCUPANCY

- (1) **PURPOSE:** The purpose of this Section is to provide regulations governing the review and approval of Zoning Certificates of Occupancy. This procedure is required to verify that completed development has complied with the approved site plan (per the requirements of Section 1.908), and the requirements of this Ordinance as a whole.

1.909 (2) LAND USES AND DEVELOPMENT REQUIRING A CERTIFICATE OF OCCUPANCY: Zoning Certificates of Occupancy shall be required for any of the following:

- (a) Occupancy and use of a building or structure hereafter erected or structurally altered.
- (b) New occupancy and/or new use of an existing building when the new use is of a different land use classification.
- (c) Occupancy and use of vacant land.
- (d) New use of vacant land when the new use is of a different land use classification.
- (e) Any change in the use of a nonconforming use.

No such occupancy, use or change of use shall take place until a Zoning Certificate of Occupancy therefor has been issued by the Zoning Administrator, or designee.

(3) ISSUANCE OF CERTIFICATE OF OCCUPANCY:

- (a) **Application:** All applications for Zoning Certificates of Occupancy shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall contain the name and address of the applicant and the property owner, and the address and tax parcel number of the site.
- (b) **Exemptions from Application:** Every application for a Zoning Permit, Conditional use Permit, or Building Permit shall also be deemed to be an

application for a Zoning Certificate of Occupancy for a new building or for an existing building which is to be substantially altered or enlarged as determined by the Zoning Administrator. A separate application is not needed.

- (c) **When issued:** If the work has been completed in conformity with the provisions of this Ordinance, a written Zoning Certificate of Occupancy shall be issued within ten (10) working days after either (i) the application therefor has been made, or (ii) notice is given to the City that the work authorized by a Zoning Permit, Conditional Use Permit or Building Permit has been completed and the property is ready for final zoning inspection.
- (d) **Records:** Every Zoning Certificate of Occupancy shall state that both (i) the building and (ii) the proposed use of a building or land, substantially complies with all provisions of this Ordinance. A record of all Certificates shall be kept on file in the office of the Zoning Administrator and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.

- (4) **CERTIFICATE OF OCCUPANCY FOR LEGAL NONCONFORMING USES:** Upon application, a Zoning Certificate of Occupancy shall be issued for all legal nonconforming uses of land or buildings, created by adoption of this Ordinance or in existence at the effective date of this Ordinance. Any application for a Certificate for a nonconforming use, filed with the Zoning Administrator more than one (1) year after the effective date of this Ordinance, shall require the applicant to prove, by clear and convincing evidence, that the use currently being made of the property is the same use of the property that was occurring on the effective date of this Ordinance. It shall be the duty of the Zoning Administrator to investigate and issue Certificates of Occupancy for a legal nonconforming use.

- (5) **TERMINATION OF A CERTIFICATE OF OCCUPANCY:** It shall constitute a violation of this Ordinance for any person or other entity, to do any of the things mentioned in Subsection (2), above, without having first obtained a Zoning Certificate of Occupancy. Any Certificate issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Zoning Administrator, he shall forthwith revoke the Certificate, by notice in writing to be delivered by him to the holder of the void Certificate upon the premises where the violation has occurred, or if such holder be not found there, by mailing the said notice of revocation by Certified Letter to his last known address. Any person who shall proceed thereafter with such work or use without having obtained a new Zoning Certificate of Occupancy shall be deemed guilty of an additional violation of this Ordinance.

1.909 (6) FEE:

- (a) All applicants required to file a separate application for a Certificate of Occupancy shall pay a fee which shall be established by resolution of the City Council.
- (b) Zoning Certificate of Occupancy fees do not include, and are in addition to, building permit fees established by the City Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
- (c) A double fee shall be charged by the Zoning Administrator if occupancy occurs before a Certificate is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
- (d) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An

application is not considered “complete” and ready for consideration until all fees have been paid.

1.910 VARIANCES

- (1) **PURPOSE:** The purpose of this Section is to provide regulations which enable the administrators of this Ordinance to hear and decide requests for permitted variations from the terms of this Ordinance as will not be contrary to the public interest; where owing to special factors, a literal enforcement of the provisions of this Ordinance would result in practical difficulty or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done, as provided by Wisconsin Statutes 62.23(7)(e)(7).
- (2) **INITIATION OF REQUEST FOR APPROVAL OF A VARIANCE:** Proceedings for approval of a requested variance shall be initiated by an application of the owner(s) of the subject property, or their legally authorized representative(s).
- (3) **APPLICATION REQUIREMENTS:** All applications for variances shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall contain all of the following:
 - (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) **Ownership Map:** A map of the subject property showing all lands for which the variance is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the tax records. Said map shall clearly indicate the current zoning of the subject property and its environs. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
 - (c) **Overall Map:** A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole.
 - (d) **Description:** A written description of the proposed variance, providing specific reference to those sections of this Ordinance from which the Applicant seeks relief, and describing the specific terms, conditions and requirements of the variance proposed for the subject property.
 - (e) **Site Plan:** A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of Section 1.908(3).
 - (f) **Written Justification:** Written justification for the requested variance consisting of the reasons why the Applicant believes the proposed variance is appropriate, particularly as evidenced by compliance with the standard set out in Subsection (5)(e) below.
- (4) **REVIEW BY ZONING ADMINISTRATOR:**
 - (a) The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall

so notify Applicant and forward the application to the Mauston Board of Appeals for further action.

- (b) The Zoning Administrator shall review and evaluate the application and shall comment in writing to the Mauston Board of Appeals on the variance requested in the application, taking into consideration the review standards of subsection 1.910(5)(e) below. The Zoning Administrator's written comments shall be submitted to the Mauston Board of Appeals on or before the Public Hearing described below. A copy thereof shall also be provided to the Applicant.
- (c) The Zoning Administrator shall not refer the application to the Mauston Board of Appeals and no one shall place the application on the Board's agenda until the Zoning Administrator, or designee, has certified that the application is complete.

1.910 (5) REVIEW AND DETERMINATION BY ZONING BOARD OF APPEALS:

- (a) **Submission to Zoning Board Of Appeals Required:** Pursuant to 62.23(7)(e) Wis. Stats., no variance shall be granted except by review and action of the Mauston Zoning Board of Appeals pursuant to this Ordinance.
- (b) **Public Hearing:** The Mauston Board of Appeals shall schedule a reasonable time and place for a public hearing to consider the application within thirty (30) days after filing of the complete application. The applicant may appear in person, by agent, and/or attorney.
- (c) **Notice:** Notice of the requested variance and the public hearing shall conform to the requirements of Section 62.23(7)(e) Wis. Stats. Said notice shall contain a description of the subject property and the proposed variance. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant of the proposed variance; to the Town Clerk; and to all property owners within 200 feet of the boundaries of the subject property as identified in Subsection (3) above. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
- (d) **Formal Decision:** Within thirty (30) days after the holding of the public hearing, or within an extension of said period approved by the Applicant and granted by the Mauston Zoning Board of Appeals, the Mauston Zoning Board of Appeals shall make its findings and its determination regarding the application as a whole. The Mauston Zoning Board of Appeals may request further information and/or additional reports from the Zoning Administrator and/or the Applicant. The Mauston Zoning Board of Appeals may take final action on said request for approval of the requested variance at the time of its initial meeting, or said proceedings may be continued from time-to-time for further consideration. The Mauston Zoning Board of Appeals shall make a written report of its findings and determinations concerning the standards of subsection (e) below.
- (e) **Standards of Review:** The following factors shall be considered by the Mauston Board of Appeals in making its decision, and shall be addressed in the Zoning Board's official written decision:
 1. Whether the requested variance is in harmony with the recommendations of the City of Mauston's Comprehensive Master Plan.
 2. What exceptional or extraordinary circumstances or special factors are present which apply only to the subject property? The response to this question shall clearly indicate how the subject property contains factors which are not present on other properties in the same zoning district. Specifically:
 - a. The hardship or difficulty shall be peculiar to the subject property and different from that of other properties, and not one which affects all properties similarly. Such a hardship or difficulty shall

have arisen because of the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of the current, applicable zoning regulations, and is not economically suitable for a permitted use or will not accommodate a structure of reasonable design for a permitted use if all area, yard, green space, and setback requirements are observed;

- b. Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
- c. Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting-off existing access to a public right-of-way or deed restrictions imposed by the owner's predecessor in title are considered to be such self-imposed hardships;
- d. Violations by, or variances granted to, neighboring properties shall not justify a variance;
- e. The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance. (For example, if a lot were unbuildable because of topography in the absence of any or all setback requirements.)

- 1.910(5)(e)**
- 3. In what manner do the factors identified in subsection 2 above, prohibit the development of the subject property in a manner similar to that of other properties under the same zoning district? The response to this question shall clearly indicate how the requested variance is essential to make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.
 - 4. Would the granting of the proposed variance be of substantial detriment to adjacent properties? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on adjacent properties.
 - 5. Would the granting of the proposed variance as depicted on the required site plan (see (3)(d), above), result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of this Ordinance, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide growth and development? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.
 - 6. Have the factors which present the reason for the proposed variance been created by the act of the application or previous property owner or their agent (for example: previous development decisions such as building placement, floor plan, or orientation, lotting pattern, or grading) after the effective date of this Ordinance. The response to this question shall clearly indicate that such factors existed prior to the effective date of this

- Ordinance and were not created by action of the Applicant, a previous property owner, or their agent.
7. Does the proposed variance involve the regulation of land uses found in Article 4? The Variance procedure cannot be employed to obtain a change or modification of a land use. Therefore, the response to this question shall clearly indicate that the requested variance does not seek to change or modify the use of the subject property.
- (f) **Additional Requirements in Floodland Districts:** No variance shall be granted when it is found:
1. Filling and development contrary to the purpose and intent of the Floodplain Overlay District (FP) would result.
 2. A change in the boundaries of the Floodplain Overlay District (FP) would result.
 3. A lower degree of flood protection than a point two (2) feet above the 100-year recurrence interval flood for the particular area would result.
 4. Any action contrary to the provisions of SubOrdinance NR-116 of the Wisconsin Administrative Code would result.
- (g) **Effect of Inaction:** If the Mauston Zoning Board of Appeals fails to make a determination within thirty (30) days after said public hearing, then the request for the variance shall be considered denied.
- (6) **EFFECT OF DENIAL:** No application for a variance which has been denied (in whole or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, unless the Zoning Administrator first determines that either (i) substantial and material new evidence has arisen, or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.
- (7) **LIMITED EFFECT OF A VARIANCE:** Where the Mauston Zoning Board of Appeals has granted a variance, such approval shall not change the “use” classification of either the building or premises, nor give it any new status as a “nonconforming use” other than that status which it held before the granting of the variance. Granting of a variance shall be considered unique to the variance granted, and shall not be construed as precedent for any other proposed variance.
- (8) **STAY OF PROCEEDINGS:** An application for a variance shall stay all legal proceedings furthering enforcement of any provisions of this Ordinance from which the Applicant is requesting a variance, unless the Zoning Administrator certifies to the Mauston Zoning Board of Appeals after the request for the variance has been filed, that by reason of the facts stated in the certificate a stay would, in his opinion, 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 Mauston Zoning Board of Appeals or by a Court of Record. *State Law Reference: Section 62.23(7)(e)5., Wisconsin Statutes.*
- (9) **NOTICE TO THE DNR:** The Mauston Zoning Board of Appeals shall transmit a copy of each application for a variance to conservancy regulations in the Shoreland-Wetland, Floodway, Floodplain Conservancy, or Floodway Fringe Overlay Zoning Districts, and a copy of all Shoreland floodland appeals, to the Wisconsin Department of Natural Resources (DNR) for review and comment at least ten (10) days prior to any public hearings. Final action on the application shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to variances to shoreland conservancy regulations or to floodland regulations, and

a copy of all decisions to shoreland conservancy and floodland appeals, shall be transmitted to the DNR within ten (10) days of the date of such decision.

1.910 (10) FEE:

- (a) All applicants shall pay an application fee for a variance which shall be established by resolution of the City Council.
- (b) Variance fees do not include, and are in addition to, building permit fees established by the Township's Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
- (c) A double application fee shall be charged if an application is submitted after the Applicant has committed an act or omission for which the Applicant now seeks a variance. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
- (d) All applicants shall reimburse the City for the time spent by Staff and consultants in reviewing and processing the application, pursuant to Section 1.938(4).
- (e) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered "complete" and ready for consideration until all fees have been paid.

1.911 INTERPRETATIONS

- (1) **PURPOSE:** The purpose of this Section is to assign responsibility for the official interpretation of the provisions of this Ordinance, and to describe the required procedure for securing such interpretation.
- (2) **INITIATION OF REQUEST FOR AN INTERPRETATION:** Proceedings for an interpretation may be initiated by any of the following four methods:
 - (a) By an application of the owner(s) or occupants of the subject property;
 - (b) By a request of the Plan Commission of Mauston or Lemonweir;
 - (c) By a request of the City Council or Town Board;
 - (d) By a request of the Zoning Administrator; or
 - (e) By a request of the Joint Committee.
- (3) **APPLICATION REQUIREMENTS:** All applications from the owners or occupants of property shall be submitted to the Zoning Administrator, or designee, who shall determine if the application is complete. A complete application shall be comprised of all of the following:
 - (a) **Applicant Info:** Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) **Text:** All requests for interpretations shall clearly indicate the part of the text of this Ordinance for which the interpretation is requested and the specific questions the Applicant has regarding said text. If the Applicant believes that the text is subject to several reasonable interpretations, the Applicant shall set forth all such interpretations.
 - (c) **Specific Property:** If the requested interpretation relates to the application of this Ordinance to a specific property, the additional following information shall be required:
 - 1. A map of the subject property showing all lands for which the interpretation is requested, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses

of the owners of all lands on said map as the same appear on the tax records. Said map shall clearly indicate the current zoning of the subject property and its environs. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;

- 1.911(3)(c)**
2. A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole;
 3. A written explanation of the issue which needs interpretation, including the applicant's proposed interpretation, and an explanation of how the proposed interpretation relates to type of activities, buildings, and structures currently located on, and/or proposed for, the subject property; and,
 4. If requested by the Zoning Administrator, a site plan of the subject property as proposed for development. Said site plan shall conform to all the requirements of Section 1.908(4) or such requirements as the Administrator may require.
- (d) Land Use:** If the requested interpretation relates to the classification or treatment of a particular land use under the provisions of this Ordinance, a series of written responses to the following questions:
1. How is the subject land use (in general) in harmony with the purposes, goals, objectives, policies and standards of Mauston's Comprehensive Plan, this Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City?
 2. How is the subject land use in harmony with the purposes, goals, objectives, policies and standards of the pertinent zoning district for which the interpretation is being sought?
 3. Do the potential public benefits of the proposed interpretation outweigh any and all potential adverse impacts of the proposed interpretation?
- (4) REVIEW BY ZONING ADMINISTRATOR:**
- (a)** The Zoning Administrator, or designee, shall determine whether the application fulfills the requirements of section (3) above. If the Zoning Administrator determines that the application does not fulfill the requirements of section (3) above, he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Zoning Administrator determines that the application does fulfill the requirements of section (3), he shall commence his review thereof.
 - (b)** Within thirty (30) days of filing of a complete application, the Zoning Administrator shall review and evaluate the application. This review shall take into consideration the standards for review presented in subsection (5), below. In evaluating the application, the Zoning Administrator may consult with consultants and City Staff, such as the City Attorney, City Planner, DPW, City Administrator and/or City Engineer. The Zoning Administrator shall also evaluate the application to determine whether the request is in harmony with the recommendations of the Mauston's Comprehensive Master Plan.
 - (c)** The Zoning Administrator, or such consultants or staff as the Zoning Administrator may deem appropriate (e.g. City Attorney), shall prepare and forward a written report to the Applicant indicating the interpretation of the Zoning Administrator. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Comprehensive Master Plan,

the Zoning Administrator shall note this determination in the report. A Copy of all such reports shall be forwarded to the Committee.

1.911 (5) STANDARDS FOR REVIEW OF REQUESTED INTERPRETATIONS: This Ordinance shall be interpreted in a manner which is consistent with the purposes intended by Mauston and Lemonweir as noted in this Ordinance and the Comprehensive Plan. The intent of the standards and supporting definitions of this Ordinance is to protect both individual property owners and the general public from adverse impacts that may result from a proposed, modified, or existing land use. To this end, those called upon to interpret this Ordinance shall proceed as follows:

(a) Articulate certain public purpose(s) underlying the standard(s) for which an interpretation is required.

Rationale: Before any zoning interpretation is made, there must be a discussion of the purpose(s) for which the regulation was initially imposed. Each zoning regulation is intended to protect the interests of both present and future neighbors and the general public. Each standard is developed as a regulatory response to an identifiable potential negative impact. A sound interpretation of any standard cannot be ensured without careful analysis of the regulation and the end toward which it is directed. It is understood that there may be other public purposes underlying the interpretation which are not explicitly articulated.

(b) Articulate the actual impact of various proposed interpretations, permitting flexibility in design and prohibiting any interpretation that lowers the protection afforded to the public.

Rationale: There is a critical distinction between an interpretation which provides a greater degree of design freedom to achieve a permitted land use, and an interpretation which permits a new or not previously permitted use, or which allows a use to be enlarged, or have its intensity increased beyond the degree specified in the Ordinance. Design freedom is to be encouraged, but a lowering of the standards of this Ordinance is to be prohibited.

(c) Determine whether the proposed interpretation will ensure a just balance between the rights of the landowner and all others who will be affected by that person's land use proposal.

Rationale: If an interpretation would merely allow a design solution that is slightly different from the one expressly stated or permitted, and if it would result in a same or greater degree of protection to any affected party (either the adjoining landowners, the public at large, and/or a future property owner or renter), such an interpretation may be appropriately made. Any interpretation which would result in any identifiable loss of protection for one group to the benefit of others is contrary to the spirit of this Ordinance. Similarly, any interpretation which would either increase the nuisance potential of any use or alter the purpose for which the regulation was adopted shall be considered counter to the legislative intent of this Ordinance. Any interpretation which will result in any loss of protection or increase in intensity beyond that already permitted shall only be made if the party interpreting this Ordinance has the power to impose additional restrictions or requirements.

(d) Avoid substituting the judgment of the Administrator for the legislative acts of Mauston and Lemonweir.

Rationale: This Ordinance has been carefully designed by Mauston and Lemonweir to combine maximum achievement of public goals, and the protection of adjoining property owners, while providing flexibility for property owners to use their land for a variety of uses consistent with the goals and objectives of the Comprehensive Plan of the City of Mauston. Great care has been taken to balance

the rights of competing groups while achieving maximum protection with flexibility and a range of use options. Persons interpreting this Ordinance should not substitute their own judgments for the legislative acts of the City Council and the Town Board.

- 1.911(5)** (e) Address the following standards on land use interpretation matters:
1. No interpretation shall allow the establishment of any land use which was previously considered and rejected on an application for an amendment to the Zoning Ordinance, the Official Zoning Map, or a previously applied for appeal from a requested interpretation.
 2. No interpretation shall permit a land use listed as a use permitted by right, a special use, or a conditional use in another zoning district if the use is not listed as permitted in the zoning district of the subject property (see Article 2).
 3. No interpretation shall permit a land use in a zoning district unless evidence is presented which demonstrates that the land use will comply with any and all regulations applicable to development in the subject property's zoning district.
 4. No interpretation shall permit a land use in a particular zoning district unless such use is substantially similar to other uses permitted in that same district and is more similar to such other uses than to uses either not permitted in said district, or permitted in a more intensive district in the same zoning district category.
 5. If the proposed land use is more similar to a land use permitted only as a conditional use in the subject property's district than to a use permitted by right, then an interpretation permitting such use shall be conditioned upon the approval of a conditional use pursuant to Section 1.905.
- (6) **EFFECT OF A FAVORABLE LAND USE INTERPRETATION:** No interpretation finding a particular land use to be permitted or conditionally permitted in a specific zoning district shall authorize either the establishment of such use or the development, construction, reconstruction, alteration or moving of any building or structure. A favorable interpretation merely authorizes the preparation, filing, and processing of applications for any permits and approvals which may be required by this Ordinance. These permits and approvals include, but are not limited to, required site plans, special use permits, conditional uses, and Certificates of Occupancy.
- (7) **LIMITATIONS ON FAVORABLE LAND USE INTERPRETATION:**
- (a) No interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the interpretation, unless a Building Permit is issued and development is actually begun within that period, and is thereafter diligently pursued to completion, or a Certificate of Occupancy is obtained and a use commenced within that period.
 - (b) An interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be deemed to authorize only that particular use at that particular location for which the interpretation was issued. The interpretation shall not be deemed to authorize any allegedly similar use for which a separate interpretation has not been issued. A favorable interpretation shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.

- (c) An interpretation finding a particular land use to be permitted by right or conditionally permitted shall have no precedential value. It is understood that, if the Committee wished such interpretation to have precedential value, it would amend this Ordinance to include such interpretation herein. It is also understood that mistakes in interpretation often become apparent only after the interpretation becomes effective and the use is employed and observed.

1.911 (8) FEE:

- (a) All applicants shall pay an application fee for an interpretation, which fee shall be established by resolution of the City Council.
- (b) Interpretation fees do not include, and are in addition to, zoning permit fees and other fees established by this Ordinance, building permit fees established by the Township's Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
- (c) A fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
- (d) All applicants shall reimburse the City for the time spent by Staff and consultants in reviewing and processing the application, pursuant to Section 1.938(4).
- (e) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered "complete" and ready for consideration until all fees have been paid.

1.912 APPEALS OF ZONING DECISIONS

- (1) **PURPOSE:** The purpose of this Section is to provide a procedure to hear and decide requests for appeals from the decisions of the Zoning Administrator per Section 1.911, as provided for by 62.23(7)(e)(7) Wis. Stats.
- (2) **INITIATION OF REQUEST FOR REVIEW OF ZONING DECISION:** Proceedings for the review of an appeal may be initiated by any aggrieved person, or by any officer, department, Board, Committee or Council affected by any decision of the Zoning Administrator.
- (3) **TIME LIMIT FOR FILING AN APPEAL:** An appeal shall be made within a period not exceeding forty-five (45) days from the date of issuance of the decision from which the appeal is taken. Failure to initiate this appeal procedure within this 45-day period shall constitute a final and binding waiver of the right to appeal said interpretation.
- (4) **APPLICATION REQUIREMENTS:** All applications for review of an interpretation, regardless of the party of their initiation per Subsection (2) above, shall be submitted to the City Administrator, or designee, who shall determine if the application is complete. The City Administrator shall act as the clerk for the Mauston Zoning Board of Appeals in receiving said Applications. A complete application shall contain all of the following:
 - (a) Name and address of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project, and the address and tax parcel number for the site.
 - (b) A copy of all documents previously submitted by the Applicant which relate to the issue of the appeal. (The City will supply copies of these items, at applicant's expense, if the Applicant has lost or misplaced his/her own copies).
 - (c) A written statement from the Applicant specifying the grounds for the appeal. Such statement shall indicate the reasons why an appeal is justified, based upon

an analysis of the Zoning Administrator's decision. This statement shall be dated and signed by the Applicant.

- 1.912 (5) REVIEW BY CITY ADMINISTRATOR AND ZONING ADMINISTRATOR:** The submitted application shall be reviewed by the City Administrator and the Zoning Administrator in the following steps:
- (a) The City Administrator, or designee, shall determine whether the application fulfills the requirements of section (4) above. If the City Administrator determines that the application does not fulfill the requirements of section (4), he shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the City Administrator determines that the application is complete, he shall so notify Applicant and forward the application to both the Zoning Administrator and the Mauston Zoning Board of Appeals.
 - (b) The Zoning Administrator shall review and evaluate the application, and shall comment, in writing, on the written justification for the appeal to the Mauston Zoning Board of Appeals. The Zoning Administrator shall also evaluate the application to determine whether the request is in harmony with the recommendations of the City of Mauston's Comprehensive Master Plan. Before the date set for the Public Hearing, the Zoning Administrator shall forward this written report to the Mauston Board of Appeals, along with copies of all papers constituting the record of the Zoning Administrator on this application. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Master Plan or this Ordinance, the Zoning Administrator shall note this determination in the report.
- (6) REVIEW AND ACTION BY THE MAUSTON ZONING BOARD OF APPEALS:**
- (a) **Public Hearing:** The Mauston Zoning Board of Appeals shall schedule a reasonable time and place for a public hearing, within forty-five (45) days after the Administrator determines that the application is complete.
 - (b) **Notice:** Notice of the appeal and said public hearing shall conform to Section 63.23(7)(e) of the Wisconsin Statutes. Said notice shall contain a description of the appealed issue. At least ten (10) days before said public hearing, the City Clerk shall mail an identical notice (i) to the Applicant, (ii) to the Town Clerk, and (iii) to any property owner within 200 feet of the subject property. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
 - (c) **Formal Decision:** Within sixty (60) days after the filing of the complete application (or, within an extension of said period requested in writing by the Applicant and granted by the Zoning Board of Appeals), the Mauston Zoning Board of Appeals shall make its findings. The Zoning Board of Appeals may request further information and/or additional reports from The Zoning Administrator and/or the Applicant. The Zoning Board of Appeals may take final action on the application for appeal at the time of its initial meeting, or may continue the proceedings at Applicant's request. Said final action shall be followed by a written report which shall include formal findings of facts developed and approved by the Zoning Board of Appeals concerning the request.
 - (d) **Board's Authority:** Pursuant to Section 62.23(7)(e)8 Wis. Stats., the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Zoning Administrator.
 - (e) **Effect of Inaction:** If the Mauston Zoning Board of Appeals fails to make a determination within sixty (60) days after the filing of said complete application, then the request for the appeal shall be considered denied.

- 1.912 (7) EFFECT OF DENIAL:** No application which has been denied (in whole or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, unless the Zoning Administrator, or designee, first determines that either (i) substantial and material new evidence has arisen or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.
- (8) LIMITED EFFECT OF A FAVORABLE RULING ON AN APPEAL:**
- (a)** No ruling by the Mauston Zoning Board of Appeals on an appeal finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the ruling on the appeal, unless a building permit is issued and development is actually begun within that period, and is thereafter diligently pursued to completion, or a Certificate of Occupancy is obtained and a use commenced within that period.
 - (b)** A ruling by the Mauston Zoning Board of Appeals on an appeal finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be deemed to authorize only that particular use at that particular location for which the ruling was issued. The ruling shall not be deemed to authorize any allegedly similar use for which a separate ruling has not been issued. A favorable ruling shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.
- (9) FEE:**
- (a)** All applicants shall pay an application fee for an appeal, which fee shall be established by resolution of the City Council.
 - (b)** Appeal fees do not include, and are in addition to, zoning permit fees and other fees established by this Ordinance, building permit fees established by the Township's Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
 - (c)** A fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
 - (d)** All applicants shall reimburse the City for the time spent by Staff and consultants in reviewing and processing the application, pursuant to Section 1.938(4).
 - (e)** The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered "complete" and ready for consideration until all fees have been paid.

1.913 RESERVED FOR FUTURE USE

1.914 PLANNED DEVELOPMENT DISTRICT PROCEDURES

- (1) PURPOSE:**
- (a)** The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed Planned Developments, and to provide for the possible relaxation of certain development standards pertaining to the underlying standard zoning district.
 - (b)** Planned Developments are intended to provide more incentives for development and redevelopment in areas of the community which are experiencing a lack of significant investment. Furthermore, Planned Developments are designed to

forward both the aesthetic and economic development objectives of the Area by controlling the site design and the appearance, density or intensity of development in terms of more flexible requirements for land uses, density, intensity, bulk, landscaping, and parking requirements. In exchange for such flexibility, the Planned Development shall provide a much higher level of site design, architectural control and other aspects of aesthetic and functional excellence than normally required for other developments.

- (c) Planned Developments have the potential to create undesirable impacts on nearby properties if allowed to develop simply under the general requirements of this Ordinance. In addition to such potential, Planned Developments also have the potential to create undesirable impacts on nearby properties which potentially cannot be determined except with a binding site plan, landscape plan and architectural plan, and on a case by case basis. In order to prevent this from occurring, all Planned Developments are required to meet certain stringent procedural requirements applicable only to Planned Developments, in addition to the general requirements of this Ordinance. A public hearing process is required to review a request for a Planned Development. This process shall essentially combine the process for a zoning map amendment with that required for a conditional use, with several additional requirements.

1.914 (2) EXTENT OF FLEXIBLE DEVELOPMENT STANDARDS:

- (a) **Permitted Location:** Planned Developments shall be permitted with the approval of a Planned Development Zoning District, specific to the approved Planned Development, within all zoning districts.
- (b) **Flexible Development Standards:** The following exemptions to the development standards of the underlying zoning district may be provided with the approval of a Planned Development:
1. **Land Use Requirements:** All land uses listed as “Residential”, “Institutional”, or “Commercial” in Article 2 may be permitted within a Planned Development.
 2. **Density and Intensity Requirements:** All requirements listed in Article 2 for residential density and nonresidential intensity may be waived or modified within a Planned Development.
 3. **Bulk Requirements:** All bulk requirements listed in Article 2 may be waived or modified within a Planned Development.
 4. **Landscaping Requirements:** All requirements listed in Article 6 may be waived or modified within a Planned Development.
 5. **Parking and Loading Requirements:** All requirements listed in Sections 1.509 and 1.511 may be waived or modified within a Planned Development.
- (c) **Requirements to Depict All Aspects of Development:** Only development which is explicitly depicted on the required site plan, as finally approved, shall be permitted, even if such development (including all aspects of land use, density and intensity, bulk, landscaping, and parking and loading), is otherwise listed as permitted in Article 2. Requested exemptions from these standards shall be made explicit by the Applicant in the application, and shall be recommended by the Committee and approved explicitly by the City Council and Town Board. If not so requested and approved, such exemptions shall not be permitted.

- 1.914 (3) INITIATION OF REQUEST FOR APPROVAL OF A PLANNED DEVELOPMENT:** Proceedings for approval of a Planned Development shall be initiated:
- (a) By an application of the owner(s) of the subject property;
 - (b) By a recommendation of the Plan Commission of Mauston or Lemonweir;
 - (c) By a recommendation of the City Council or Town Board; or
 - (d) By a recommendation of the Joint Committee.
- (4) **APPLICATION REQUIREMENTS:** All applications for proposed Planned Developments, regardless of the party of their initiation per (3) above, shall be approved as complete by the Zoning Administrator a minimum of two weeks prior to the initiation of this procedure. The Zoning Administrator shall forward copies of said complete application to the office of the City Clerk. Said application shall apply to each of the process steps in (5) through (8) below.
- (5) **STEP 1: PRE-APPLICATION CONFERENCE:**
- (a) The Applicant shall contact the Zoning Administrator to place an informal discussion item for the PD on the Joint Committee's agenda.
 - (b) To be placed on the agenda, no details are required except the following: the names and addresses of the applicant, the owner of the site, the architect(s), professional engineer(s) and contractor(s) being used on the project (if known), and the address and tax parcel number for the site.
 - (c) At the Committee meeting, the Applicant shall engage in an informal discussion with the Committee regarding the potential PD. Appropriate topics for discussion may include the location of the PD, general project themes and images, the general mix of dwelling unit types and/or land uses being considered, approximate residential densities and non-residential intensities, the general treatment of natural features, the general relationship to nearby properties and public streets, and relationship to the Master Plan.
 - (d) Points of discussion and conclusions reached in this stage of the process shall not be binding, directly or indirectly, upon the Applicant or the Committee, but shall be considered as merely an informal, non-binding discussion designed to give the Applicant some feedback, positive and/or negative, on the proposal and to give the Committee some general background before proceeding to the next step.
- (6) **STEP 2: CONCEPT PLAN:**
- (a) **Submittal packet:** The Applicant shall submit to the Zoning Administrator a draft PD Concept Plan Submittal Packet, which shall contain all of the following items:
 - 1. **Location Map:** A location map of the subject property and its vicinity at 11" x 17", as depicted on a copy of the City of Mauston Land Use Plan Map;
 - 2. **General Description:** A general written description of proposed PD including:
 - a. General project themes and images;
 - b. The general mix of dwelling unit types and/or land uses;
 - c. Approximate residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio
 - d. The general treatment of natural features;
 - e. The general relationship to nearby properties and public streets;

- f. The general relationship of the project to the Master Plan;
 - g. An initial draft list of zoning standards which will not be met by the proposed PD and the location(s) in which they apply and, a complete list of zoning standards which will be more than met by the proposed PD and the location(s) in which they apply. Essentially, the purpose of this listing shall be to provide the Plan Commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility; and
3. **Requested Exemptions:** A written description of potentially requested exemption from the requirements of the underlying zoning district, in the following order:
- a. Land Use Exemptions;
 - b. Density and Intensity Exemptions;
 - c. Bulk Exemptions;
 - d. Landscaping Exemptions; and
 - e. Parking and Loading Requirements Exemptions;
4. **Conceptual Plan:** A conceptual plan drawing (at 11" x 17") of the general land use layout and the general location of major public streets and/or private drives. The Applicant may submit copies of a larger version of the "bubble plan" in addition to the 11" x 17" reduction.
- (b) **Review by Administrator:** The Zoning Administrator, or designee, shall determine whether the PD Concept Submittal Packet fulfills the requirements of section (a) above. If the Zoning Administrator determines that the packet does not fulfill the requirements of section (a) above, he shall return it to the Applicant with a brief statement identifying how it is inadequate. If the Administrator determines that the packet fulfills the requirements of section (a), he shall so notify Applicant and shall place the matter on the Committee agenda.
- (c) **Review by Joint Committee:** At the Committee meeting, the Applicant shall engage in an informal discussion with the Committee regarding the conceptual PD. Appropriate topics for discussion may include the any of the information provided in the PD Concept Plan Submittal Packet, or other items as determined by the Committee.
- (d) **Non-Binding Effect:** Points of discussion and conclusions reached in this stage of the process shall not be binding, directly or indirectly, upon the Applicant or the Committee, but shall be considered as merely an informal, non-binding basis for proceeding to the next step.
- Rationale: The foregoing procedures are intended to give the Committee several informal reviews of the concept plan before introduction of the formal petition for rezoning which accompanies the next step, the formal GDP application. Although time-consuming, this informal process is designed to give the Committee lots of time to consider the PD, and at the same time, give the applicant lots of feed-back so that the time and expense of the formal petition is minimized (or perhaps eliminated), by incorporation into the GDP of the comments and concerns raised during this preliminary informal process.
- (7) **STEP 3: GENERAL DEVELOPMENT PLAN (GDP):**
- (a) **Purpose:** The purpose of this step is to evaluate whether the zoning for the proposed site should be changed from its current zoning to PUD zoning which will create zoning unique to the property. Therefore, the focus of this step is on

the same types of issues which affect all changes of zoning, i.e. density, intensity, the mix of use and the arrangement of site design. The details of the PUD are generally reserved for Step 4, but in some cases those details may need to be also addressed in Step 3, depending upon the concerns of the Committee. For example, in Step 3 a general discussion of landscaping exemptions is necessary, but in Step 4 a full and complete landscaping plan is required. However, if landscaping for the site is of particular concern, some of the details reserved for Step 4 may be requested in Step 3. Hence, it is important to understand that while Steps 3 and 4 are separate steps in this Ordinance, they may become combined in practice on a case-by-case basis.

- 1.914(7) (b) Submittal Packet:** The Applicant shall submit to the Zoning Administrator a draft GPD Plan Submittal Packet , which shall contain all of the following items:
- 1. Location Map:** A location map of the subject property and its vicinity at 11" x 17", as depicted on a copy of the City of Mauston Land Use Plan Map;
 - 2. Ownership Map:** A map of the subject property showing all lands for which the planned development is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current tax records . Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
 - 3. General Description:** A general written description of the proposed PD including:
 - a.** General project themes and images;
 - b.** The general mix of dwelling unit types and/or land uses;
 - c.** Approximate residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;
 - d.** The general treatment of natural features;
 - e.** The general relationship to nearby properties and public streets;
 - f.** The general relationship of the project to the Master Plan;
 - g.** A Statement of Rationale as to why PD zoning is proposed. This shall identify barriers that the Applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the Applicant suggests are available through the proposed PD zoning;
 - h.** A complete list of zoning standards which will not be met by the proposed PD and the location(s) in which they apply and a complete list of zoning standards which will be more than met by the proposed PD and the location(s) in which they apply shall be identified. Essentially, the purpose of this listing shall be to provide the Committee with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility;
 - i.** A written description of potentially requested exemption from the

requirements of the underlying zoning district, in the following order:

- 1). Land Use Exemptions;
- 2). Density and Intensity Exemptions;
- 3). Bulk Exemptions;
- 4). Landscaping Exemptions;
- 5). Parking and Loading Requirements Exemptions.

- 1.914(7)(b)**
4. **GDP Drawing:** A General Development Plan Drawing at a minimum scale of 1"=100' (11" x 17" reduction shall also be provided by Applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:
 - a. A conceptual plan drawing (at 11" x 17") of the general land use layout and the general location of major public streets and/or private drives. The Applicant may submit copies of a larger version of the "bubble plan" in addition to the 11" x 17" reduction;
 - b. Location of recreational and open space areas and facilities and specifically describing those that are to be reserved or dedicated for public acquisition and use;
 - c. Statistical data on minimum lot sizes in the development, the approximate areas of large development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the Committee; and
 - d. Notations relating the written information provided in (7)(b)3., above to specific areas on the GDP Drawing.
 5. **Landscaping:** A general conceptual landscaping plan for subject property, noting approximate locations of foundation, street, yard and paving, landscaping, and the compliance of development with all landscaping requirements of this Ordinance (except as noted in the listing of exceptions) and the use of extra landscaping and bufferyards.
 6. **Signage:** A general signage plan for the project, including all project identification signs and concepts for public fixtures and signs (such as street light fixtures and/or poles or street sign faces and/or poles) which are proposed to vary from this Ordinance or common practices.
 7. **Written Justification:** Written justification for the proposed Planned Development. (The Applicant is advised to use the requirements of the conditional use procedure to develop said written justification.)
- (c) **Review by Administrator:** The Zoning Administrator, or designee, shall determine whether the GPD Submittal Packet fulfills the requirements of section (b) above. If the Administrator determines that the packet does not fulfill the requirements of section (b) above, he shall return it to the Applicant with a brief statement identifying how it is inadequate. If the Administrator determines that the packet does fulfill the requirements of section (b) above, he shall so notify Applicant and shall place the matter on the Committee agenda.
- (d) **Review by Joint Committee:** The process for review and approval of the GDP shall be identical to that for conditional use permits per Section 1.905(6) of this ordinance and (if land is to be divided) to that for preliminary and final plats of subdivision per the Mauston Code.

(8) STEP 4: PRECISE IMPLEMENTATION PLAN (PIP):

(a) Purpose: The purpose of this step is to obtain all the details necessary to establish specific conditions on the proposed development and operations. It is akin to a conditional use permit application for the whole development.

(b) Submittal Packet: After the effective date of the rezoning to PD/GDP, the Applicant may file an application for a proposed Precise Implementation Plan (PIP) with the Zoning Administrator, which shall contain all of the following items:

1. Location Map: A location map of the subject property and its vicinity at 11" x 17", as depicted on a copy of the City of Mauston Land Use Plan Map. The area included in a Precise Implementation Plan may be only a portion of the area included in a previously approved General Implementation Plan.

2. Ownership Map: A map of the subject property showing all lands for which the planned development is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current tax records. Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;

1.914(8)(b)

3. Written Description: A general written description of proposed PIP including:

- a.** Specific project themes and images;
- b.** The specific mix of dwelling unit types and/or land uses;
- c.** Specific residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;
- d.** The specific treatment of natural features;
- e.** The specific relationship to nearby properties and public streets.
- f.** A Statement of Rationale as to why PD zoning is proposed. This shall identify barriers that the Applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the Applicant suggests are available through the proposed PD zoning.
- g.** A complete list of zoning standards which will not be met by the proposed PIP and the location(s) in which they apply and a complete list of zoning standards which will be more than met by the proposed PIP and the location(s) in which they apply shall be identified. Essentially, the purpose of this listing shall be to provide the Committee with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility.

4. Plan Drawing: A Precise Implementation Plan Drawing at a minimum scale of 1"=100' (11" x 17" reduction shall also be provided by Applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for

approval:

- a. A PIP site plan conforming to all the requirements of Section 1.908(3). If the proposed Planned Development is a a group development (per Section 1.414) a proposed preliminary plat or conceptual plat shall be provided in addition to the required site plan.
 - b. Location of recreational and open space areas and facilities and specifically describing those that are to be reserved or dedicated for public acquisition and use;
 - c. Statistical data on minimum lot sizes in the development, the precise areas of all development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the Committee; and
 - d. Notations relating the written information provided in (8)(b)3., above to specific areas on the GDP Drawing.
- 1.914(8)(b)**
- 5. **Landscaping:** A landscaping plan for subject property, specifying the location, species, and installed size of all trees and shrubs. This plan shall also include a chart which provides a cumulative total for each species, type and required location (foundation, yard, street, paved area or bufferyard) of all trees and shrubs.
 - 6. **Exteriors:** A series of building elevations for the entire exterior of all buildings in the Planned Development, including detailed notes as to the materials and colors proposed.
 - 7. **Signage:** A general signage plan for the project, including all project identification signs, concepts for public fixtures and signs (such as street light fixtures and/or poles or street sign faces and/or poles), and group development signage themes which are proposed to vary from this Ordinance or common practices.
 - 8. **Organizational structure:** A general outline of the intended organizational structure for a property owners association, if any; deed restrictions and provisions for private provision of common services, if any.
 - 9. **Consistency with GDP :** A written description which demonstrates the full consistency of the proposed PIP with the approved GDP.
 - 10. **Variations:** All variations between the requirements of the applicable PD/GDP zoning district and the proposed PIP development; and
 - 11. **Public Works:** The Applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development.
 - 12. **Design Info:** The Precise Implementation Plan (PIP) submission may include site plan and design information, allowing the Committee to combine design review and review of the PIP. Design review may, at the choice of the Applicant, be deferred until a later time when specific site and building developments will be brought forth.
 - 13. **Other:** The Committee may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the PIP, as such may be relevant to review.
- (c) **Review by Zoning Administrator:** The Zoning Administrator, or designee, shall determine whether the PIP fulfills the requirements of section (b) above. If

the Administrator determines that the PIP does not fulfill the requirements of section (b) above, he shall return it to the Applicant with a brief statement identifying how it is inadequate. If the Administrator determines that the PIP does fulfill the requirements of section (b) above, he shall so notify Applicant and shall place the matter on the Committee agenda.

- (d) **Process for Review:** The process for review and approval of the PD shall be identical to that for conditional use permits per Section 1.905(6) of this ordinance and (if land is to be divided) to that for preliminary and final plats of subdivision per the applicable code, except that in addition to approval by the Committee, all PD's must also be approved by the City Council and Town Board.

Rationale: Creation of a PD is tantamount to an amendment to the Zoning Map and Zoning Regulations and, therefore, should be reviewed and approved by the City Council and Town Board.

- (e) **Development Time Table:** All portions of an approved PD/PIP not fully developed within five years of final approval shall expire, and no additional PD-based development shall be permitted. The City Council and Town Board may extend this five years period by up to five additional years via a majority vote following a public hearing.

- 1.914 (9) REVIEW AND ACTION BY THE COMMON COUNCIL:** The City Council shall consider the Committee's recommendation regarding the PD. The Council may request further information and/or additional reports from the Committee, the Mauston Plan Commission, Zoning Administrator, and/or the Applicant. The Council may conduct one or more meetings on the Application. The Council may approve or deny the PD as proposed. If the Common Council wishes to make changes to the PD, as recommended by the Committee, then the procedure set forth in Sections (7) and (8) above shall again be followed prior to Council action. The Common Council's approval of a PD shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed PD.

- (10) **MINOR CHANGES:** During the construction of a PD, the Zoning Administrator, with the consent of either the Town Administrator or the DPW, is authorized to approve minor variations and minor changes to any previously-approved PD, without compliance with the foregoing procedures, provided the spirit and intent of the original PD is preserved. All such variations shall be approved in writing and, whenever the variation changes any term or condition of a written resolution previously recorded with the Register of Deeds, the variation shall also be recorded.

Rationale: The intent of this section is to avoid the expensive and time-consuming process of a PD whenever a minor change is needed. During construction, problems often arise which require minor changes to PD's. It is expensive, time-consuming, unnecessary and wasteful for the Applicant, the Joint Committee and the Council to go through the whole PD process just to approve a minor change. (*Created per Ord. 931*)

- (11) **REVIEW AND ACTION BY THE TOWN BOARD:** Upon approval by the City Council, the Town Board shall consider the Committee's recommendation regarding the PD. The Board may request further information and/or additional reports from the Committee, the Lemonweir Plan Commission, Zoning Administrator, and/or the Applicant. The Board may conduct one or more meetings on the Application. The Board may approve or deny the PD as proposed. If the Board wishes to make changes to the PD, as approved by the City Council, then the procedure set forth in Sections (7), (8) and (9) above shall again be followed prior to Board action. The Board's approval of a PD

shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed PD. (*Renumbered per Ord. 931*)

- (12) **FEE:** (*Renumbered per Ord. 931*)
- (a) All applicants for a PD shall pay an application fee, which fee shall be established by resolution of the City Council.
 - (b) Application fees do not include, and are in addition to, zoning permit fees and other fees established by this Ordinance, building permit fees established by the Township's Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
 - (c) A fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
 - (d) All applicants shall reimburse the City for the time spent by Staff and consultants in reviewing and processing the application, pursuant to Section 1.938(4).
 - (e) The City may delay any and all action and steps required above, including public hearings, until such time as all fees required hereunder have been paid. An application is not considered "complete" and ready for consideration until all fees have been paid.

1.931 ADMINISTRATION BY CITY

The City of Mauston shall be primarily responsible for the administration and enforcement of this Ordinance, pursuant to the terms and conditions of this Ordinance.

1.932 ZONING ADMINISTRATOR

- (1) **DESIGNATION:** The Zoning Administrator for the City of Mauston, or a designee, is hereby designated as the administrative and enforcement officer for the provisions of this Code. The duty of the Zoning Administrator is to interpret and administer this Code and to issue, after on-site inspection, all permits required by this Code.
- (2) **DUTIES:** The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or a designee, who in addition thereto and in furtherance of said authority shall:
 - (a) Determine that all Detailed Site Analyses, Building Permits, Certificates of Occupancy, Sign Permits, Site Plans, (and their constituent plans) comply with all provisions of this Ordinance.
 - (b) Conduct inspections of buildings, structures, waters and land to determine compliance with all provisions of this Ordinance.
 - (c) Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Ordinance. If, however he is refused entry after presentations of his identification, he may procure a special inspection warrant in accordance with Section 66.122 of the Wisconsin statutes. Conduct inspections of buildings, structures, waters and land to determine compliance with all provisions of this Ordinance.
 - (d) Maintain permanent and current records of this Ordinance, including but not limited to all maps, amendments, conditional uses, temporary uses, sign permits, site plans, occupancy permits, variances, appeals, interpretations, and applications therefor.
 - (e) Record the first floor and lowest floor (basement or crawl space) elevations of all structures erected, moved, altered, or improved in the floodland districts.
 - (f) Receive, file and forward all applications for all procedures governed by this Ordinance to the designated official bodies.

- (g) Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Code to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the City Attorney in a manner specified by him.
- (h) Institute, in the name of the City of Mauston and the Township of Lemonweir, any appropriate actions or proceedings against a violator of this Ordinance, as provided by law.
- (i) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
- (j) Where useful, set marks on bridges or buildings or other markers which show the depth of the regional flood; or may set marks delineating the boundaries of wetlands.
- (k) Request assistance and cooperation from the City Police Department, the City Public Works Department and the City Attorney as deemed necessary.
- (l) Make available to the public, to the fullest extent possible, all reports and documents concerning the City's comprehensive plan and ordinances. In addition, information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely distributed. The City Council may set fees necessary to recover the cost of providing information to the public.
- (m) Designate a Deputy Zoning Administrator.
- (n) Make interpretations regarding the provisions of this Ordinance per Section 1.911.
- (o) Grant minor variations from the dimensional (setback, height, and area requirements of this Ordinance; up to a maximum variation of 5% for setbacks and height limitations; and up to a maximum variation of 5% or 1,000 square feet for area requirements (whichever is less); so long as the spirit and intent of the performance standards are preserved.

1.933 JOINT COMMITTEE

The Joint Extraterritorial Zoning Committee, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the Extraterritorial Zoning District to the City Council and the Town Board, other public officials and other interested organizations and citizens. The Committee, its members and employees, in the performance of its functions, may enter upon any land and make examinations and surveys. In general, the Committee shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. A majority of the Committee shall constitute a quorum for the conducting of all business of the Committee. A favorable vote of four (4) members of the Committee shall be needed to take action on all matters before the Committee.

1.934 SITE PLAN REVIEW COMMITTEE

- (1) **ESTABLISHMENT:** The Site Plan Review Committee is hereby created. The Committee shall be comprised of (i) the City's Zoning Administrator, (ii) the DPW, (iii) one of the three Township members of the Joint Committee as selected by the Chairman of the Joint Committee, and (iv) such additional members as the Joint Committee may designate from time to time.
- (2) **DUTIES:** The Committee is hereby charged with the duty of evaluating site plans and formulating a recommendation to the Committee regarding (i) the standards of review applicable thereto, and (ii) such conditions as it deems necessary to ensure that the proposed development is in harmony with the purposes, goals, objectives, policies and standards of the City of Mauston Comprehensive Plan, this Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the

City. The committee may conduct such reviews of the proposed site and such meetings with the applicant as it deems necessary to evaluate the application and formulate its recommendation. The Committee may also consult with such experts, engineers, municipal planners and other persons as it deems necessary to carry out its functions.

1.935 RESERVED FOR FUTURE USE

1.936 ZONING BOARD OF APPEALS

The Mauston Zoning Board of Appeals shall have the power and duty to review and determine all matters relating to requested variances from the provisions of this Ordinance (see Section 1.910); or appeals regarding an interpretation of the Zoning Administrator of the provisions of this Ordinance (see Section 1.911 and 1.912).

- (1) ESTABLISHMENT AND MEMBERSHIP:** (*See*, Ordinance 3.36)
- (2) ORGANIZATION:** The Mauston Board of Appeals may adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman, and at such other times as the Board of Appeals may determine. The Chairman, or in his absence an elected Acting Chairman, may administer oaths and compel the attendance of witnesses. All meeting shall be open to the public. The Board of Appeals 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 of Appeals, which is the City Clerk's office, and shall be a public record.
- (3) POWERS:**
 - (a)** The Board of Appeals shall have the following powers:
 - 1.** To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
 - 2.** To hear and decide special exceptions to the terms of this Code upon which the Board of Appeals is required to pass.
 - 3.** To authorize, upon appeal in specific cases, such variance from the terms of this Code as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
 - 4.** Permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this Code, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
 - (b)** In exercising the above listed powers, the Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Administrator or other administrative officer from whom the appeal is taken. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this Code.
 - (c)** In addition to the foregoing powers, the Board of Appeals shall have the following

specific powers:

1. To interpret the provisions of this Code in such a way as to carry out the intent and purpose of the plan, as shown on the Zoning Map accompanying and made a part of this Code, where the street layout actually on the ground varies from the street layout on the aforesaid map.
 2. To call on any other city department for assistance in the performance of its duties and it shall be the duty of such other departments to render such assistance as may be reasonably required.
- (d) Except as specifically provided, no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such districts.

1.936 (4) PROCEDURES: Except where another procedure is specifically provided in this Ordinance (e.g. variance procedure of 1.910), the following procedures shall apply.

- (a) **Appeals:** Appeals to the Board of Appeals may be taken by any person aggrieved by any decision of the Zoning Administrator. Such appeal shall be taken within the time established, and if no specific time is established, within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the Zoning Administrator and with the Board of Appeals, a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the City Council. The Zoning Administrator shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest, and shall decide to same within a reasonable time.
- (b) **Notice of hearing:** The Board of Appeals shall fix a reasonable time and place for the hearing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the Zoning Administrator by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) five days prior to the hearing to the holders of title of all land within 300 feet of any part of the subject building or premises involved in the appeal.
- (c) **Hearings:** Hearings on appeals shall be public and shall be conducted according to the rules of procedure adopted by the Board. At the hearing, the appellant or applicant may appear in person, and/or by agent or by attorney. Decisions of the Board following public hearing may be made either in public or closed session as the Board shall determine, in accordance with Section 19.82 Wis. Stats.
- (d) **Findings:** Findings of fact and reasons for all actions taken shall be reduced by the Board to writing in the minutes of the proceedings.
- (e) **Decision:** The Zoning Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, and Committee
 1. Conditions may be placed upon any Zoning Permit ordered or authorized by this Board.
 2. Variances, substitutions, or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.
 3. Applicants receiving variances in floodlands shall be notified, in writing, by the Board of Appeals that increased flood insurance premiums and risk to life or property may result from the granting of the variance. The Board

shall keep a record of the notification in its files.

- (f) **Review by Court of Record:** Any persons aggrieved by any decision of the Board of Appeals may present to a court of record, a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the Board.
- (g) **Fee:**
1. All applicants shall pay an application fee for an appeal, which fee shall be established by resolution of the City Council.
 2. Appeal fees do not include, and are in addition to, zoning permit fees and other fees established by this Ordinance, building permit fees established by the Township's Building Code, and other fees which may be imposed for driveways, water hook-up and sewer hook-up.
 3. A fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

(5) **WETLAND AND FLOODLAND MAPPING DISPUTES:**

- (a) **Wetland Disputes:** Whenever the Board of Appeals is asked to interpret a lakeshore Shoreland-Wetland or Floodland District boundary where an apparent discrepancy exists between the City's Final Wetland Inventory Map and actual field conditions, the City shall contact the Wisconsin Department of Natural Resources (DNR) to determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was incorrectly mapped as a wetland, the Board of Appeals shall direct the Committee to initiate appropriate action to rezone the property within a reasonable amount of time.
- (b) **Floodland Disputes:** Whenever the Board of Appeals is asked to interpret a floodland boundary where an apparent discrepancy exists between the federal Flood Insurance Study and the actual field conditions, the following procedure shall be used. The floodland boundary shall be determined by use of the flood profiles contained in an engineering study, or where such information is not available to the Board of Appeals, the person contesting the location of the district boundary shall be given the opportunity to present his own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the Board of Appeals shall advise the Committee of its findings and the Committee shall proceed to petition for a map amendment.

1.937 **RESERVED FOR FUTURE USE**

1.938 **FEES**

- (1) **FEES FOR PROCEDURES REQUESTED BY A PRIVATE PARTY:** The fees for the procedures and permits established by this Ordinance shall be established by resolution of the City Council of the City of Mauston.
- (2) **FEES FOR PROCEDURES REQUESTED BY THE CITY OF MAUSTON:** There shall be no fee in the case of applications filed in the public interest by the City Council, the Town Board, the Mauston or Lemonweir Plan Commission, the Committee, or any official of the City of Mauston.
- (3) **PAYMENT OF FEES:** Fees shall be payable at the time applications are filed with the appropriate officer of the City (per the requirements of this Ordinance), and are not refundable.

- (4) **REIMBURSABLE COSTS:** *(Amended per Ord. 984)*
- (a) **Consultants:** Planners, engineers, attorneys, and other staff of the City and/or Township, may expend substantial amounts of time in the investigation and processing of the various applications required by this Zoning Ordinance. In addition to City and/or Township staff involvement, the City, the Township and/or the Joint Committee may retain the services of professional consultants including, but not limited to, engineers, architects, attorneys, urban planners, environmental specialists, landscaping specialists and recreation specialists in the review, analysis, investigation and processing of such matter.
- (b) **Payment:** Any person, firm or corporation requesting action on any application required herein, shall reimburse the City and/or the Township (within the limits established herein) for (i) the cost of staff time expended in the administration, investigation and processing of applications for such applications and (ii) the cost to the City and/or Township charged by any professional consultant retained to work on any such matter. The amount charged by the City and/or Township for staff time shall be established by Resolution of the City Common Council and/or the Town Board, and the amount charged for retained consultants shall be the amount which the consultant charges to the city and/or Township. The amount which may be charged by the City and/or Township without agreement from the applicant shall not exceed \$1,000. If the reimbursable costs are likely to exceed \$1,000, the City and/or Township shall notify the applicant of the same and shall negotiate an agreement with the applicant regarding the payment of any costs exceeding \$1,000. Such agreement shall be negotiated before such costs are incurred, and notwithstanding any provision herein to the contrary, the City and/or Township may withhold action on any matter until such agreement has been reached.
- (c) **Collection of Costs:** The City or Township and/or the Joint Committee may require all or part of these costs be paid in advance by the applicant, or may withhold action on any matter until payment has been received from applicant. Any costs not paid by the applicant may be assigned by the Township as a special assessment or charge against the subject property, or may be collected from the applicant through any procedure permitted by law.
- (d) **Appeal or Waiver of Costs:** An applicant may appeal to the City Council the payment of costs imposed by the City. An applicant may appeal to the Town Board the payment of costs or the terms of any agreement regarding the payment of costs imposed by the Township. The City Council or the Town Board, by resolution, may alter any such agreement or may waive all or part of any costs for any specific project, or may authorize other staff or Joint Committee to waive such costs.

1.939 RESERVED FOR FUTURE USE

1.940 VIOLATIONS AND PENALTIES

- (1) **VIOLATION OF THIS ORDINANCE:** It shall be unlawful for any owner, occupant, contractor, developer, builder, electrician, plumber, or other person or entity, to build, construct or use any land or structure, or to engage in any development activity (including disruption of protected vegetation), in violation of any of the provisions of this Ordinance, or otherwise neglect, refuse or fail to comply with this Ordinance's requirements. Any and all persons (including the owner, occupant, contractor, developer, builder, electrician, plumber, etc.) who violate(s) or fail(s) to comply with any of the provisions of this Ordinance shall, upon conviction thereof, be subject to the penalties set forth in

Subsection (2), below, and in addition, shall pay all costs and expenses, including actual reasonable attorney's and other fees involved in the case. Each day a violation exists or continues shall constitute a separate offense. Each person participating in or committing the offense shall be liable.

- (2) **PENALTIES:** Any person, firm, corporation or other legal entity, who fails to comply with the provisions of this Code or any order of the Zoning Administrator, shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$200.00 plus the costs of prosecution for each violation.
- (3) **ABATEMENT OF VIOLATION:** In addition to any other penalty imposed by this Ordinance for a violation of the provisions of this Ordinance, the City and the Township reserve and maintain the continued right to abate violations of this Ordinance.
- (4) **HAZARDOUS CONDITION CAUSED BY VIOLATION OF THIS ORDINANCE:** If the Zoning Administrator determines that a violation of this Ordinance exists, and further determines that the nature of such violation poses a great and immediate danger to the public health, safety, peace, morals or decency, the Zoning Administrator shall cause the violation to be abated. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred per Subsection (6), below. The Zoning Administrator is hereby authorized to abate a violation of this Ordinance.
- (5) **NON-HAZARDOUS CONDITION CAUSED BY VIOLATION OF THIS ORDINANCE:** If the Zoning Administrator determines that a violation of this Ordinance exists, and further determines that the nature of such violation is not such as to pose great and immediate danger to the public health, safety, peace, morals or decency, the Zoning Administrator shall serve written notice by Certified Mail on the current owner of the property (as indicated by current tax records) on which said violation is occurring, to remove said violation within a period of time established by the Zoning Administrator, but not less than ten(10) working days. If such violation is not removed within such time period, the Zoning Administrator may cause the violation to be abated. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred per Subsection (6), below.
- (6) **COST OF ABATEMENT:** In addition to any other penalty imposed by this Ordinance for a violation of the provisions of this Ordinance, the cost of abating a violation of this Ordinance, shall be collected as a debt from the owner of the property on which said violation has occurred. An account of the expenses incurred to abate the violation shall be kept by the City, and such expenses shall be charged to and paid by the property owner. Notice of the bill for abatement of the violation shall be mailed to the last known address of said property owner by Certified Mail, and shall be payable within thirty (30) calendar days from the mailing thereof. If such costs and expenses remain unpaid sixty (60) calendar days from the mailing thereof, the Township shall enter such charges onto the tax roll as a special tax as provided by State Statute, and/or may collect the charges in any manner permitted by law.