

## **400.04 GENERAL PROVISIONS.**

### **400.04 (1) Application of Zoning Ordinance.**

(a) In their interpretation and application, the provisions of this Zoning Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.

(b) Where the conditions imposed by any provision of this Zoning Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements shall prevail.

(c) No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Zoning Ordinance.

**400.04 (2) Severability.** It is hereby declared to be the intention of the Common Council that the several provisions of this Zoning Ordinance are severable in accordance with the following:

(a) If any court of competent jurisdiction shall adjudge any provision of this Zoning Ordinance to be invalid, such judgment shall not affect any other provisions of this Zoning Ordinance not specifically included in said judgment.

(b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Zoning Ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

### **400.04 (3) Non-conforming Uses and Nonconforming Structures.**

**(a) Nonconforming Uses and Structures.** Any structure or use lawfully existing at the time of the enactment of this Zoning Ordinance or of an amendment of this Zoning Ordinance with which the structure or use is not in conformity may be continued at the size and in the manner of operation existing immediately prior to the effective date of enactment of this Zoning Ordinance or such amendment to this Zoning Ordinance with which the structure or use is not in conformity, although the use does not conform to the current provisions of the ordinance, except as hereinafter specified. The nonconforming use may not be extended. The total structural repairs or alterations in such a nonconforming building, premises, structure, or fixture shall not during its life exceed 50 percent of the assessed value of the building, premises, structure, or fixture unless it is permanently changed to a conforming use. [Sec. 62.23(7) (h) Wis. Stats.] **[Amended by Ord 2014-16]**

**(b) Discontinuance of Nonconforming Use.** When any lawful nonconforming use of a building, premises, structure, or fixture in any district is discontinued for a period of twelve (12) months or is changed to a conforming use, its former status as a lawful prior nonconforming use is permanently lost and any future use of said building, premises, structure, or fixture shall be in conformity with the provisions of this Zoning Ordinance. [Sec. 62.23(7) (h) Wis. Stats.]

**[Amended by Ord 2014-16]**

**(c) Restoration of Certain Non-conforming Structures.** Whenever a lawful non-conforming structure shall have been damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation occurring on or after March 2, 2006, it may be restored and used as before if it be restored within twelve (12) months after such calamity to the size, location, and use that it had immediately before the damage or destruction occurred. The size of the restored structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements. If all of the foregoing apply, there shall be no limit on the costs of the repair, reconstruction, or improvement. If the restored structure shall, after the reconstruction, have a use different from its use immediately before the damage or destruction, it shall lose its character as a prior non-conforming use and shall meet all of the requirements of this Zoning Ordinance for the new use unless a variance is granted to allow the new use. [Sec. 62.27(7) (hc) Wis. Stats.] **[Amended by Ords 2012-3 and 2014-17]**

**(d) Restoration of Other Damaged Nonconforming Structures.** There shall be no limit on the costs of the repair, maintenance, renovation, or remodeling of lawfully nonconforming structures existing at the time of the adoption of or amendment to this zoning ordinance which do not meet the criteria of (c). However, no such repair, maintenance, renovation, or remodeling shall have the effect of extending or intensifying the nonconformity of the structure with all development regulations and other applicable provision of this Zoning Ordinance and the total structural repairs or alterations in such a nonconforming building, premises, structure, or fixture shall not during its life exceed 50 percent of the assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use. [62.23(7) (h) Stats.] If the reconstructed structure shall, after the reconstruction, have a use different from its use immediately before the damage or destruction, it shall lose its character as a prior non-conforming use and shall meet all of the requirements of this Zoning Ordinance for the new use. [Sec. 62.23(7) (hc) Wis. Stats.] **[Amended by Ord 2014-17]**

**(e) Unsafe Structures; Raze Orders.** When a structure has been declared unsafe by the Building Inspector, and said structure has been actually used as a lawful non-conforming use immediately prior to such declaration by the Building Inspector, such structure may be placed in safe condition and may continue in the existing use, except that when an order to raze the structure has been issued pursuant to sec. 66.0413 has been duly issued, this provision shall not be construed to overrule such raze order or as a defense against such raze order. **[Amended by Ord 2014-17]**

**(f)** Any structure which will become non-conforming under this Zoning Ordinance, but for which a building permit has been lawfully granted prior to June 14, 1990, or prior to the effective

date of an amendment to this Zoning Ordinance which has the effect of making the structure non-conforming, may be completed in accordance with the approved plans, provided that construction of the structure is started within sixty (60) days of such amendment to this Zoning Ordinance and continues to completion within one (1) year after such effective date. Such structure shall thereafter be a deemed a legally existing non-conforming structure.

(g) A lawful non-conforming use of a structure or parcel of land may be changed to a similar non-conforming use or to a more restrictive non-conforming use. Once a structure or parcel of land has been placed in a more restrictive non-conforming use, it shall not thereafter return to a less restrictive non-conforming use. The order of restrictive uses, from most to least restrictive, is: single family residential; two family residential; three or four family residential; permitted commercial; conditional use commercial; permitted industrial; conditional use industrial.

(h) Repealed by Ord 2014-17.

(i) **Private garages.** Pursuant to a conditional use permit a private garage may be added to a property which contains a nonconforming use if no private garage previously existed on the property and if such garage is in conformity with all development regulations and other applicable provisions of this Zoning Ordinance. [Amended by Ord 2014-17]

**400.04 (4) Substandard Lots with Existing Structures in R Districts. [Amended by Ord 2008-1]**

(a) Where there existed on June 14, 1990, a lot of record in an "R" Residential District, which lot on that date already contained an existing structure, and which lot which does not meet the requirements of this Zoning Ordinance as to lot area or lot width, the existing structure on such lot may be utilized for single-family detached dwelling purposes provided the measurements of such lot area and lot width are within seventy percent (70%) of the requirements of this Zoning Ordinance. However, such a substandard lot of record shall not be more intensively developed unless it is combined with one (1) or more abutting lots or portions thereof under common ownership so as to create a lot meeting the requirements of this Zoning Ordinance.

(b) In the event that a substandard lot is combined with an abutting lot to create a lot meeting the requirements of this Zoning Ordinance, the City may require the execution and recording of a covenant which describes the lands so combined, which states that the properties shall henceforth be deemed to constitute one lot and which provides that the combined lot shall not be subdivided or conveyed in the future as separate parcels.

(c) For purposes of this paragraph, the phrase "more intensively developed" means constructing on or moving onto the lot any building, addition to a building or other structure which increases the total square footage of the lot covered by a structure or structures, including by way of illustration garages, carports, storage buildings, porches and decks. However, the addition of one (1) detached accessory building with floor size of not more than eighty (80) square feet on the lot shall not be deemed more intensive development and may be permitted on a substandard lot, provided it meets all setback requirements applicable to the lot.

**400.04 (5) Accessory Buildings including Private Garages: Limitations.**

(a) No private garage, accessory building or other structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory, except a temporary construction structure or a structure for which a conditional use permit has been issued which specifically permits construction of the structure prior to construction of the principal building. In no event shall a temporary construction structure or conditionally permitted structure be allowed to exist for more than 1 year prior to completion of construction of the principal building. **[Amended by Ord 2015-1]**

(a) Only one private garage and only one other accessory building shall be permitted on a lot in an "R" District, except by conditional use permit. No building permit shall be required for construction of an accessory building smaller than 120 square feet. **[Amended by Ord 1997-11 & 2015-1]**

(b) In all "R" Districts no private garage shall exceed seven hundred sixty-eight (768) square feet of floor area and no other accessory building shall exceed one hundred twenty (120) square feet of floor area except by conditional use permit. **[Amended by Ord 2015-1]**

(c) No accessory building shall exceed the height of the principal building. In no case shall any private garage or other accessory building exceed fifteen (15) feet in height in an "R" District except by conditional use permit. **[Amended by Ord 2015-1]**

(d) No portion of any private garage or other accessory building shall be located nearer the front lot line than the principal building on that lot. **[Amended by Ord 2015-1]**

(e) No accessory building or structure other than an attached garage attached to the principal building shall be erected, altered or moved to within five (5) feet of the principal building on the lot. **[Amended by Ord 2015-1]**

(f) No accessory building or structure, unless an integral part of the principal building, shall be erected, altered or moved to within three (3) feet of any lot line.

(g) No accessory building or structure, unless an integral part of the principal building, shall be erected, altered or moved to within to within ten (10) feet of any building on an adjoining lot. Any variance from said required 10 foot distance from a building on an adjoining lot shall include as a condition of the variance that all walls or portions of walls allowed by the variance to be within said 10 feet and the ceiling of the building shall be of unpierced construction (i.e. no doors or windows) and shall be lined with a double layer of X rated sheet rock to constitute a fire wall.

(h) Subparagraphs (e), (f) and (g) shall not be deemed to supersede any greater required distances applicable to accessory buildings in specific zoning districts.

(i) All accessory buildings on through lots located in "R" Districts shall require a conditional

use permit.

(j) No cellar, basement, tent, trailer, or accessory building shall at any time be used as an occupied dwelling except an attached private garage with living area above the ground floor of the garage for which a conditional use permit has been granted. **[Amended by Ord 2015-1]**

**400.04 (6) Required Yards and Open Spaces Including Regulation of Fences.**

(a) No yard or other open space shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this Zoning Ordinance, and if the existing yard or other open space as existed at the time of the enactment of this Zoning Ordinance is less than the minimum required, it shall not be further reduced.

(b) No required yard or other open space allocated to a building or dwelling use shall be used to satisfy yard requirements, other open space requirements, or minimum lot area requirements of any other building or dwelling use.

(c) Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.

(d) The following shall not be considered to be encroachments on yard and setback requirements, but they shall nevertheless constitute illegal encroachments within a traffic visibility triangle:

1. In Any Yard:

- a. Off-street open parking spaces;
- b. Open terraces;
- c. Sidewalks;
- d. Flag poles;
- e. Unenclosed steps leading from ground level to the floor of a building closest to ground level;
- f. Single posts, located not less than four feet (4') from any similar post;
- g. Yard lights;
- h. Flues and chimneys;
- i. Belt courses;
- j. Leaders, pilasters or lintels;
- k. Ornamental architectural features covering less than fifteen (15) square feet of ground area;
- l. Cornices, eaves troughs, or gutters;

- m. Awnings or open canopies attached directly to a building;
- n. Open (unenclosed) fire escapes;
- o. Decorative fences not exceeding eight feet (8') in length in any one direction and not exceeding sixteen feet (16') in total length. Such decorative fences shall not have more than two (2) rails and shall be not less than eighty-five percent (85%) open.

2. In Front Yards:

- a. Service station pump islands;
- b. Fences not more than thirty (30) inches high. Any fence in a front yard more than thirty (30) inches high shall require a conditional use permit. No barbed wire shall be used in any fence in a front yard within the City, unless such fence is permitted under a conditional use permit issued under 400.23(b). **[Amended by Ord 2014-13]**

3. In Side Yards of Lots Other Than Corner Lots:

- a. Driveways and private, parking spaces for passenger cars;
- b. Retaining walls forty-two (42) inches high or less;
- c. Decorative walls thirty-two (32) inches high or less;
- d. Hedges six feet (6') or less in height if such hedge is located more than 20 feet from the nearest point of the right-of-way of any public street;
- e. Hedges thirty inches (30") or less in height if the hedge is located within 20 feet from the nearest point of the right-of-way of any public street;
- f. Fences six feet (6') or less in height where such fence is located more than 20 feet from the nearest point of the right-of-way of any public street; **[Amended by Ord 2010-8]**
- g. Fences thirty inches (30") or less in height where such fence is located within 20 feet of the nearest point of the right-of-way of any public street; **[Amended by Ord 2010- 8]**
- h. No barbed wire shall be used in any fence in a side yard within the City, unless such fence is allowed under 404.23 (a) or has been granted a conditional use permit issued under 400.23(b). **[Amended by Ord 2014-13]**

4. In Side Yards of Corner Lots:

- a. Driveways, private parking spaces and carports for passenger cars;

- b. Retaining walls forty-two (42) inches high or less;
- c. Decorative walls thirty-two (32) inches high or less;
- d. Hedges six feet (6') or less in height if such hedge is located more than 20 feet from the nearest point of the right-of-way of any public street;
- e. Hedges thirty inches (30") or less in height if the hedge is located within 20 feet from the nearest point of the right-of-way of any public street;
- f. Fences six feet (6') or less in height where such fence is located more than 20 feet from the nearest point of the right-of-way of any public street; **[Amended by Ord 2010-8]**
- g. Fences thirty inches (30") or less in height where such fence is located within 20 feet of the nearest point of the right-of-way of any public street (excluding the vision triangle area). Any fence more than 30" to a maximum of 48 inches in height (excluding the vision triangle area), may be permitted by a conditional use permit. No barbed wire shall be used in any fence in a side yard within the City, unless such fence is allowed under 404.23 (a) or has been granted a conditional use permit issued under 400.23(b). **[Amended by Ord 2014-13]**
- h. **[Repealed by Ord 2002-15]**

5. In Rear Yards of Lots Other Than Corner Lots:

- a. Recreational equipment;
- b. Clotheslines;
- c. Open arbors and trellises;
- d. Balconies;
- e. Breezeways
- f. Open decks, the floor of which is not more than three feet (3') above the average level of the surrounding ground;
- g. Patios, the floor of which is at or not more than one foot (1') above the level of the surrounding ground;
- h. Outdoor eating facilities, such as barbecues and picnic tables.
- i. Permitted accessory buildings or uses.

j. Retaining walls forty-two (42) inches high or less;

k. Decorative walls thirty-two (32) inches high or less;

l. Fences six feet (6') or less in height. No barbed wire shall be used in any fence in a rear yard within the City, unless such fence is allowed under 404.23 (a) or has been granted a conditional use permit issued under 400.23(b). **[Amended by Ord 2014-13]**

6. In Rear Yards of Corner Lots:

a. Recreational equipment;

b. Clotheslines, if located 20 feet or more from the nearest point on the right-of-way of any public street;

c. Open arbors and trellises;

d. Balconies, if located 20 feet or more from the nearest point on the right-of-way of any public street;

e. Breezeways, if located 20 feet or more from the nearest point on the right-of-way of any public street;

f. Open decks, the floor of which is not more than three feet (3') above the average level of the surrounding ground, if located 20 feet or more from the nearest point of the right-of-way of any public street;

g. Patios the floor of which is at or not more than one foot (1') above the level of the surrounding ground;

h. Outdoor eating facilities, such as barbecues and picnic tables.

i. Permitted accessory buildings or uses if located more than 20 feet from the nearest point of the right-of-way of any public street;

j. Retaining walls forty-two (42) inches high or less;

k. Decorative walls thirty-two (32) inches high or less;

l. Hedges six feet (6') or less in height where such hedge is located more than 20 feet from the nearest point of the right-of-way of any public street;

m. Hedges thirty inches (30") or less in height where such hedge is located within 20 feet from the nearest point of the right-of-way of any public street;



n. Fences six feet (6') or less in height if such fence is located more than 20 feet from the nearest point of the right-of-way of any public street; **[Amended by Ord 2010-8]**

o. Fences thirty inches (30") or less in height if such fence is located within 20 feet from the nearest point of the right-of-way of any public street; **[Amended by Ord 2010-8]**

p. No barbed wire shall be used in any fence in a rear yard within the City, unless such fence is allowed under 404.23 (a) or has been granted a conditional use permit issued under 400.23(b). **[Amended by Ord 2014-13]**

#### **400.04 (7) Traffic Visibility Triangle.**

(a) No fences, structures, trees, bushes, other plantings or other objects other than lawn grass, sidewalks or city utility system components or street signs, traffic signs or other signs installed by the city shall be permitted, placed or maintained within any area of a lot or boulevard abutting intersecting streets within the area of a traffic visibility triangle described as follows:

A triangle, the sides of which are determined by measuring to points 33 feet along the curb lines of each of the two intersecting streets from the point of intersection of the lines of the two curbs, and the base of which is a line connecting such two points. The measurement of a curb line shall be made at the top edge of the curb where the back of the concrete curb meets the boulevard. For purposes of such measurement, where the area of the curb intersection is rounded or set back to enable handicapped access to the sidewalks, the curb lines shall be extended to the point where the extended lines intersect. Where there is no curb installed, the measurement shall be made along the edge or edges of the paved street roadway(s) closest to the lot line of the abutting property. **[Amended by Ord 2014-20]**

(b) In addition, no plantings or decorative fence shall be placed within any street right-of-way abutting a corner lot within the area encompassed by extending the base line of such visibility triangle to the point where such extended base line meets the edge of the paved portion of any street.

(c) In the case of any lot or subdivision in a zoning district which provides for a larger traffic visibility triangle, the provision requiring the larger triangle shall be deemed controlling.

(d) In the case of any lot or subdivision abutting a state trunk highway, the setback and traffic visibility requirements set forth in the Wisconsin Statutes and/or Wisconsin Administrative Code shall apply, provided that such requirements require a traffic visibility triangle not smaller than required above.

**400.04 (8) Essential Services (Public Utility Uses).** Essential services shall be permitted as authorized and regulated by Wisconsin Statutes and Wisconsin Administrative Code, and by ordinances of the City of Richland Center, it being the intention that essential services are exempt from the application of this Zoning Ordinance. This Chapter shall, however, apply to essential service structures.

**400.04 (9) Annexation of Territory.** Territory contiguous to the City of Richland Center may be annexed to the City as follows:

(a) DIRECT ANNEXATION. A petition for direct annexation may be filed with the City Clerk if signed by a number of qualified electors residing in such territory equal to at least the majority of votes cast for governor in the last gubernatorial election and either:

1. The owners of one-half of the real property in assessed value within such territory or,
2. If no electors reside in such territory, the owners of one-half of the land in area within such territory or the owners of one-half of the real property in assessed value within such territory.

(b) A petition for direct annexation shall state the purpose of the petition and shall contain a clear and concise description of the exterior boundary of the land proposed to be annexed, divided and mapped by government lot, recorded private claim, quarter-quarter section, section, township, range and county; and by metes and bounds commencing with a monument at a section or quarter section corner of the quarter section and not at the center of the section, or at the end of a boundary line of a recorded private claim or federal reservation in which the land is located; or if the land is located in a recorded subdivision or recorded addition thereto, then by number or other description of the lot, block or subdivision thereof, which has previously been tied to a corner marked and established by the U.S. public land survey. In addition, the petition shall have submitted therewith either a plat which meets the requirements of sec. 236.10, Wis. Stats. or a certified survey map which meets the requirements of sec. 236.34, Wis. Stats. Any parcel of land which is intended to be divided into more than four (4) lots shall be platted; if four (4) or fewer lots are intended a certified survey map may be used instead of a plat.

(c) Such required plat or certified survey map shall show all of the following:

1. All exterior boundaries of the territory to be annexed.
2. The geographic relationship of the territory to the municipalities involved.
3. All other legal requirements applicable to such a certified survey map or plat.

(d) In addition, such plat of certified survey map shall demonstrate provisions deemed

adequate by the City in its sole discretion for all of the following:

1. Access to existing facilities and/or installation of projected facilities related to the furnishing of city services to the lands depicted on the plat, including but not limited to utilities.
2. Access to adequate public highways to serve the lands depicted on the plat or other lands in the vicinity, whether or not such lands are presently in the City.
3. Placement and development of interior streets, sidewalks and other public works upon the platted lands.
4. Drainage and disposal of rainwater and waters generated by snowmelt.
5. Such provisions shall be based upon and shall make provision for needs projected to exist when the lands have been fully developed.

(e) ANNEXATION BY REFERENDUM. As an alternative to direct annexation, a petition for annexation by referendum as described in sec. 66.021 Wis. Stats. may be submitted. A petition for annexation by referendum shall meet all of the requirements of (b) above, in addition to all other matters required by law.

(f) Annexed territory shall be placed in the R-1 Zoning District until such time as a detailed study determining its proper use district is undertaken, unless the annexation ordinance specifically places the annexed territory in a different zoning district. A provision in an annexation ordinance which places the annexed lot or parcel of land into a zoning district shall have the effect of amending the zoning district map to show such lot or parcel in the district in which it was placed by such annexation ordinance.

**[Amended by Ord 2014-12]**

#### **400.04 (10) Farming Operations.**

All farms whereon farming operations were being carried on June 14, 1990, will be permitted to continue the same or similar farming operations as a prior non-conforming use subject to the following conditions:

(a) Any change in the current agricultural use, other than a change of crops, requires a conditional use permit.

(b) Limited sales of products produced may be conducted on the premises from a roadside stand but such stand shall not exceed twelve (12) feet in height or four hundred (400) square feet in floor area, and no portion of any such stand shall be located or erected nearer than fifty (50) feet from any street line. The owner of any roadside stand may be required to apply for and receive a conditional use permit if the City Council considers such stand to be a hazard to the public health, safety or general welfare.

(c) There shall be no high-density farming operations carried on within the City of Richland Center.

**400.04 (11) Land Reclamation.**

Under this Zoning Ordinance, land reclamation is the reclaiming of land by depositing of material so as to elevate the grade. Any lot or parcel upon which six hundred (600) cubic yards or more of fill is to be deposited shall constitute land reclamation. Land reclamation shall be permitted only by conditional use permit in all districts. The conditional use permit shall include as a condition thereof the submission of a finished grade plan, demonstrating that the land reclamation will not adversely affect the adjacent land, and as conditions thereof may regulate the type of fill permitted, program for rodent control, plan for fire control and general maintenance of the site, controls of vehicular ingress and egress. Prior to the issuance of a permit, the permittee shall submit an erosion control plan, which shall include control of material disbursed from wind or hauling of material to or from the site.

**400.04 (12) Mining.**

The extraction of sand, gravel, or other material from the land in the aggregate amount of six hundred (600) cubic yards or more and removal thereof from the site without processing constitutes mining. In all districts the conduct of mining shall be permitted only upon issuance of a conditional use permit. Such permit shall include, as a condition thereof, a plan for a finished grade which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted, and the route of trucks moving to and from the site. Prior to the issuance of a permit, the permittee shall submit an erosion control plan, which shall include control of material disbursed from wind or hauling of material to or from the site.

**400.04 (13) Soil Processing.**

The operation of processing sand, gravel, or other material mined from the land constitutes soil processing. In all districts, soil processing shall be permitted only upon issuance of a conditional use permit. Such conditional use permit shall require a site plan of the parcel where the processing is to be done, showing the location of the plant, disposal of water, route of trucks moving to and from the site in removing processed material from the site, and such permit shall be granted for a specified period. Prior to the issuance of a permit, the permittee shall submit an erosion control plan, which shall include control of material disbursed from wind or hauling of material to or from the site.

**400.04 (14) Relocated Structures.**

Before any existing house or other structure is moved onto a vacant lot, a conditional use permit must be secured. The Planning Commission shall report to the City Council whether the structure proposed to be so moved will be compatible with other development in the area. If the City Council concurs with the decision of the Planning Commission that the structure would depreciate the area into which it is to be moved, the City Council may withhold issuance of a

permit for such relocation. The Building Inspector shall submit a report concerning structural soundness of the structure and any improvements that should be made if the building is relocated. The applicant shall submit photographs taken from two (2) or more angles of the structure to be moved and photos of the lot on which the structure is to be located together with adjacent lots and structures. The foregoing requirements do not apply to construction sheds or other temporary structures to be located on a lot for an aggregate period of eight (8) months or less. Any site-built portion of a structure moved onto a lot shall comply with all applicable building codes and ordinances.

**400.04 (15) Effect of Street Vacation on District Boundaries.**

Whenever any street, alley, easement or public way is vacated by official action, the designation of the zoning district(s) abutting the centerline of the said vacated area shall not be affected by such proceedings.

**400.04 (16) Platting.**

All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features of proper subdivision and land planning. Any lot or lots having an area of two and one-half (2 1/2) acres or less, created by any means for purposes of erecting a structure, must be approved by the City Council. The plan for such subdivision shall be reviewed by the Planning Commission which shall submit a report to the City Council. The City Council shall make the ultimate determination whether to approve the plat.

**400.04 (17) Dwelling Units; Where Prohibited.**

No cellar, basement of an unfinished home, garage, tent, trailer, or accessory building shall at any time be used as a dwelling unit except mobile homes located in an approved mobile home park.

**400.04 (18) Street Frontage Required.**

No lot shall be created which contains any building used as a dwelling unless it abuts at least twenty feet (20) on a public street. No lot having less than twenty (20) feet abutting on a public street shall have any building to be used as or have a dwelling erected or installed upon it, except that lots located in Assessor's Plat of East Haseltine may be created which abut a platted public alley. [Amended by Ord 1998-7]

**400.04 (19) Rezoning.**

Rezoning for any commercial or industrial use shall not be permitted except in the following circumstances:

- (a) The rezoned property is an extension of an existing Commercial or Industrial District.

(b) The rezoned property is designed to be a part of a larger, integrated and planned business or industrial development area as designated on the City's Guide Plan.

(c) The City Council finds other compelling reasons for such rezoning, not inconsistent with the overall plan of development of the City.

#### **400.04 (20) Interpretation of the Zoning Ordinance.**

In any case where there is doubt as to the meaning of this Zoning Ordinance as applied to any proposed use, the Building Inspector shall submit the application for a zoning permit or proposal for open land use to the Planning Commission who shall make a report to the City Council; the City Council shall determine if a zoning permit shall be issued or if the open land use may be permitted.

#### **400.04 (21) Planned Unit Developments. [As Repealed and Recreated by Ord 2004-7]**

**(a) Purpose:** The Planned Unit Development District is established to provide a regulatory framework designed to promote improved environmental design in the City of Richland Center by allowing for greater freedom, imagination and flexibility in the development of land, while insuring substantial compliance to the basic intent of the zoning ordinance and the general plan for community development. It allows diversification and variation in the relationship of used structures, open spaces and heights of structures in developments conceived and implemented as comprehensive and cohesive unified projects.

**(b) Permitted Uses:** The following uses are permitted in the Planned Unit Development District, provided however, that no use shall be permitted except in conformity with a specific and precise development plan pursuant to the procedural and regulatory provisions as hereinafter set forth:

(1) Permitted Uses. Any use permitted by right or as a conditional grant in any of the other districts of this Chapter may be permitted subject to the criteria as established herein, but such requirements as are made a part of an approved, recorded, precise development plan shall be, along with the recorded plan itself, construed to be enforced as part of this Chapter.

(2) Lot area, lot width, height, floor area ratio, yard and usable open space requirements. In the Planned Unit Development District, there shall be no predetermined specific lot area, lot width, height, yard and usable open space requirements, but such requirements as are made a part of an approved recorded precise development plan shall be, along with the recorded plan itself, construed to be and enforced as a part of this Chapter.

(3) Lot Subdivision. Parcel subdivision shall generally follow procedures as stated in this Chapter, except in cases where deviation from the Zoning Chapter are specifically authorized by this Section. Generally, lot subdivision shall not be approved, if the

resulting parcels do not comply with all zoning requirements as stated in the development plan. Provisions for zero lot-line parcels may be approved if compatible with the general plan presented for the Planned Unit Development District.

(4) Off-street parking. In the Planned Unit Development District, off-street parking facilities shall be provided in accordance with applicable regulations herein set forth, provided, however, that some flexibility may be allowed at the discretion of the City, so that parking requirements may be reduced in the interest of a more aesthetically pleasing result, if it appears that alternatives have been proposed to ensure adequate parking, such as staggering the hours when parking demands will be made by different uses within the unit, and such requirements as parking area, and hours of use, are made a part of an approved recorded precise development plan.

(5) Public Paths and Sidewalks. Paths and sidewalks for public use shall, generally, comply with the requirements of Chapter 400. Provided, however, that if it is deemed practical, safe, and aesthetically pleasing, the placement of public sidewalks may be specifically approved to be constructed in a manner not normally permitted under other section of the Zoning Code. Any plan approved with a path or sidewalk which would not normally conform to other provisions of the Zoning Code must be constructed exactly as approved unless the change is first approved by the City by amendment to the Planned Unit Development.

**(c) Criteria for approval:** As a basis for determining the acceptability of a Planned Unit Development District application, the following criteria shall be applied to the precise development plan for such district with specific consideration as to whether or not it is consistent with the spirit and intent of this Chapter, has been prepared with competent professional advice and guidance, and produces significant benefits in terms of environmental design:

(1) Character and intensity of land use. In a Planned Unit Development District, the uses proposed and their intensity and arrangement on the site shall be a visual and operational character which:

- (a) Are compatible to the physical nature of the site.
- (b) Would produce an attractive environment of sustained aesthetic and ecological desirability , economic stability and functional practicality.
- (c) Would not adversely affect the anticipated provision for school or other municipal services.
- (d) Would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.
- (e) Are designed to be compatible with lands surrounding the Planned Unit Development District, as to appearance and use of the land.

(f) Are compatible with the Comprehensive Plan of the City of Richland Center in respect to use and density development. Ancillary uses not identified in the Comprehensive Plan, but complimentary to it, may be permitted, but not in more than Fifteen (15) Percent of the Planned Unit Development District.

(2) Lot Area and Width. It is anticipated that a Planned Unit Development will consist of an area of several city lots to several city blocks. Under no circumstances shall a Planned Unit Development be permitted to consist of a single city lot.

(3) Economic feasibility and impact. The proponents of a Planned Unit Development District application shall provide evidence satisfactory to the City of its economic feasibility, of available adequate financing, and that it would not adversely affect the economic prosperity of the City, or the values of surrounding properties.

(4) Engineering design standards. The width of street right-of-way, width and location of street or other paving, outdoor lighting location of sewer and water lines, provision for storm water drainage or other similar environmental engineering consideration shall be based upon determination as to the appropriate standards necessary to implement the specific function in the specific situation, provided, however, that in no case shall standards be less than those necessary to insure the public safety and welfare as determined by the City.

(5) Preservation and maintenance of open space. In a Planned Unit Development District, adequate provision shall be made for the permanent preservation and maintenance of common open space either by private reservation or dedication to the public.

(a) In the case of private reservation, the open area to be reserved shall be protected against building development by conveying to the City, as part of the conditions for project approval, an open space easement over such open areas.

(b) The care and maintenance of such open space reservation shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall, be included in any contractual agreement with the City and shall be included in the title to- each property.

(c) Ownership and tax liability of private open space reservation shall be established in a manner acceptable to the City and made a part of the conditions of plan approval.

(6) Implementation schedule. The proponents of a Planned Unit Development District shall submit a reasonable schedule for the implementation of the development to the satisfaction of the City, including suitable provisions for assurance that each phase could be brought to completion in a manner which would not result in adverse effect upon the community as a result of termination at that point.



(7) Permitted Uses. The precise development plan shall comply, in all respects, with the provisions of this section 400.04 (21).

**(d) Procedure.** The procedure for rezoning to a Planned Unit Development District shall be as required for any other zoning district change under this Chapter, except that in addition thereto, the rezoning may only be considered in conjunction with a development plan, and shall be subject to the following additional requirements:

(1) A General Development Plan, which shall be submitted to the City for approval, shall include the following information:

(a) A statement describing the general character of the intended development.

(b) An accurate map of the project area including its relationship to surrounding properties and existing topography and key features.

(c) A plan of the proposed project showing at least the following information in sufficient detail to make possible the evaluation of the criteria for approval as set forth in Subsection (c) of this Section:

1. The pattern of proposed land use, including shape, size and arrangement of proposed land areas, density and environmental character .

2. The pattern of public and private streets.

3. The location, size and character of recreational and open space areas reserved or dedicated for public uses, such as school; park, greenway, etc.

4. A utility feasibility study.

(d) Appropriate statistical data on the size of the development ratio of various land uses, percentages of multi-family units by number of bedrooms, economic analysis of the development, expected staging and any other plans or data pertinent to evaluation by the City under the criteria of Subsection (c) of this section.

(e) General outline of intended organizational structure related to property owner's association, deed restrictions and private provision of common services.

(2) Referral and hearing.

(a) Within a reasonable time after completion of the filing of the petition for approval of a General Development Plan, the City Planning Commission shall forward the petition to the City Council, with a recommendation that the plan be approved as submitted, approved with modifications, or disapproved.

(b) Upon receipt of the City Planning Commission's recommendation, the City Council shall determine whether or not to initiate a proposed zoning change to permit the proposed planned community development district, and to schedule the public hearing as required by this Chapter.

(c) The General Development Plan, including all related maps, shall be made available to the public to review in the office of the City Clerk.

(d) Approval of the rezoning and related general development plan shall establish the basic right of use for the area in conformity with the plan as approved, which shall be recorded as an integral component of the district regulations, but such plan shall be conditioned upon approval of a specific implementation plan, and shall not make permissible any of the uses as proposed until a specific implementation plan is submitted and approved for all or a portion of the general development plan.

(3) Specific Implementation Plan. A specific and detailed plan of implementation of all or a part of the proposed Planned Unit Development District must be submitted within a reasonable period of time, as determined by the City Council. If a Specific Implementation Plan has not been submitted within said time, which the City Council determines to be a reasonable phase of the total plan, a petition to rezone the property back to the previous zoning from the Planned Unit Development District shall be filed by the City Zoning Officer with the City Clerk, for processing. The Specific Implementation Plan shall be submitted to the City Planning Commission, and shall be made available for view by the general public in the Office of the City Clerk, and shall include the following detailed construction and engineering plans and related detailed documents and schedules:

(a) An accurate map of the area covered by the plan including the relationship to the total general development plan.

(b) The pattern of public and private roads, driveways, walkways, paths, sidewalks, and parking facilities.

(c) Detailed lot layout and subdivision plans, where required.

(d) The arrangement of building groups other than single family residences, and their architectural character .

(e) Detailed plans showing the appearance of buildings, including the facade, siding, color, dimensions, design, style, and any other information sufficient to clearly reflect what the buildings will look like.

- (f) Sanitary sewer and water mains.
- (g) Grading plan and storm drainage system.
- (h) The location and treatment of open space areas, and recreational or other special amenities.
- (i) General location and description of any areas to be dedicated to the public.
- (j) General landscape treatment.
- (k) Proof of financing capability.
- (l) Analysis of economic impact upon the community.
- (m) A development schedule indicating:
  - 1. The approximate date when construction of the project can be expected to begin.
  - 2. The stages in which the project will be built and approximate date when construction of each stage can be expected to begin.
  - 3. The anticipated rate of development.
  - 4. The approximate date when the development of each of the stages will be completed.
- (n) Agreements, bylaws, provisions or covenants which govern the organization structure, use, maintenance and continued protection of the Planned Unit development and any of its common services, common open areas, or other facilities.
- (o) Any other plans, documents, or schedules requested by the City.

(4) Approval of the Specific Implementation Plan.

- (a) Following a review of the Specific Implementation Plan, the City Planning Commission shall recommend to the City Council that it be approved as submitted, approved with modifications, or disapproved.
- (b) Upon receipt of the City Planning recommendations, the City Council may approve the plan and authorize development to proceed accordingly, or disapprove the plan, and send it back to the City Planning Commission for further negotiation with the developer.

(c) In the event of approval of the Specific implementation Plan, the building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the City offered or required with regard to project value, character and other factors pertinent to an Assurance that the proposed development will be carried out basically as presented in the official submitted plans, shall be recorded by the developer within a reasonable period of time, as determined by the City Council, in the Richland County Register of Deeds Office. This shall be accomplished prior to the issuance of any building permit.

(d) Any subsequent change or addition to the plans or use shall first be submitted for approval to the City Attorney and City Planning Commission, and if, in the opinion of the City Planning Commission, such change or addition constitutes a substantial alteration of the original plan, the procedure provided in Subsection (d) above, and in this subsection shall be required.

**400.04 (22) Permitted Uses.** Except as specifically provided, no building or premises may be devoted to uses other than those indicated as permitted uses according to provisions of this Zoning Ordinance.

**400.04 (23) Fences; Use of Barbed Wire.** Fences may be erected as only as permitted under 400.04 (6) and subject to the following:

(a) No barbed wire shall be used in any fence within the City, unless such fence is a boundary fence abutting a parcel of land being legally used as an operating farm or in conjunction with an operating farm for agricultural purposes. **[Amended by Ord 2014-13]**

(b) In a "C-G" General Business District, an "IND" General Industry District or an "IP" Industrial Park Industry District barbed wire may be placed at the top of a chain link fence or a solid fence only where:

1. The fence is a permitted use in the zoning district and conditional use permit has been granted allowing the use of barbed wire, or
2. A conditional use permit has been granted allowing the fence and the use of barbed wire on top of the fence
3. No such use of barbed wire is shall be less than six (6) feet above ground level.  
**[Amended by Ord 2014-13]**

**400.04 (24) Signs.** Signs may be erected only as permitted under the provisions of this

Zoning Ordinance and then only if also permitted under the provisions of **Chapter 485 Regulating Signs in the City of Richland Center.**

**400.04 (25) Bulk Storage (Liquid).**

(a) All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall require a conditional use permit in order that the City Council may have assurance that fire, explosive, or water contamination hazards are not present that would be detrimental to the public health, safety and general welfare.

(b) All existing, above ground liquid storage tanks having a capacity in excess of two hundred and seventy (270) gallons shall secure a conditional use permit within twelve (12) months following enactment of this Zoning Ordinance; the City Council may require the development of diking around said tanks, suitably sealed, to hold a leakage capacity equal to one hundred and fifteen percent (115%) of the tank capacity. Any existing storage tank that, in the opinion of the City Council, constitutes a hazard to the public safety shall discontinue operations within five (5) years following enactment of this Zoning Ordinance.

**400.04 (26) Motels.** Motels shall contain at least six hundred (600) square feet of lot area per unit, except that there shall be at least one thousand (1,000) square feet of lot area per unit, intended for permanent occupancy (two weeks or more) by a family.

**400.04 (27) Community Living Arrangements. [Amended by Ord 2008-1]**

(a) The provisions of sec. 62.23(7)(i) Wis. Stats., as the same may be from time to time amended, are hereby adopted and incorporated by reference herein, subject to the following:

(b) The City Council hereby elects not to adopt a lesser minimum distance between community living arrangements than that imposed by said section 62.23(7)(i)1 Wis. Stats., which minimum distance is within 2,500 feet of any other such facility. Any person may apply for a conditional use permit allowing a community living arrangement which is otherwise permitted herein to be closer than the statutory minimum distance from any other such community living arrangement.

(c) Community living arrangements duly licensed by the Wis. Dept. of Health and Family Services may be established in the several zoning districts as follows:

1. Community living arrangements having capacity for 8 or fewer persons being served by the program may be located in an R-A, R-1, R-2, R-3/4 or R-5 District, as permitted by and subject to all requirements of sec. 62.23 (7)(i)3 Wis. Stats.;
2. Community living arrangements having capacity for 9 to 15 persons being served by

the program may be located in an R-3/4 or R-5 District, as permitted by and subject to all requirements of sec. 62.23(7)(i)4 Wis. Stats.;

3. Community living arrangements having capacity for 16 or more persons being served by the program may be located only in an R-3/4, R-5 or C-G district and then only with a conditional use permit and only if the facility meets all requirements of sec. 62.23(7)(i)5, Wis. Stats. Application for any such conditional use permit shall be made as for any other conditional use permit

(d) When the aggregate capacity of community living arrangements in the City of Richland Center reaches the totals set forth in sec. 62.23 (7)(i)2 Wis. Stats., no further such facilities shall be established in any zoning district unless pursuant to a conditional use permit, application for which shall be made as for any other such conditional use permit.

**400.04 (28) Bed and Breakfast Establishments.**

Every Bed and Breakfast Establishment shall be operated and maintained in conformity with the provisions of the Wisconsin Statutes, including but not limited to Chapter 50, Wis. Stats., and in conformity with as all rules and standards duly promulgated by the Department of Health and Social Services and/or by any other branch or agency of the State of Wisconsin which are applicable to such Bed and Breakfast Establishments. Any amendments, additions or deletions to such statutes or rules hereinafter adopted shall, from the effective date of such adoption, be deemed incorporated herein by reference and applicable to such establishments within the City. [NOTE: Third floors used for anything other than storage are subject to the Uniform Dwelling Code.]

**400.04 (29) Requirements for Single Family Dwellings and Duplex Dwellings.** No single family dwelling or duplex dwelling shall be erected or installed in any zoning district within the City of Richland Center other than in an MHP District unless it meets all of the following criteria:

(a) The structure shall be set on a full basement or other permanent enclosed foundation in accordance with sec. 70.043(1) Wis. Stats., which meets the standards set forth in subchapters III, IV and V of chap. SPS 321, Wis. Adm. Code, or set on a comparable enclosed foundation system approved by the Building Inspector which meets all standards of the Uniform Dwelling Code. The structure shall not rest upon a metal frame where the foundation meets the sills or floor joists. The Uniform Dwelling Code may require a plan certified by a registered architect or registered professional engineer to be submitted in order to ascertain that a proposed comparable enclosed foundation system provides proper support for the structure.

(b) The structure shall have a minimum floor space of at least 1,152 square feet and a minimum width of 24 feet.

(c) The structure shall have a core area of living space at least 24 feet by 24 feet in size.

(d) All on-site construction shall be in compliance with all of the following:

1. Chapters SPS 320 through 325, Wis. Admin. Code, the Uniform Dwelling Code, for one and two family dwellings. **[Amended by Ord 2008-1]**
2. Chapters SPS 380 through 387, Wis. Admin. Code, the Plumbing Code. **[Amended by Ord 2008-1]**
3. Chapter SPS 316, Wis. Admin. Code, the Electrical Code. **[Amended by Ord 2008-1]**

(e) The structure shall have a pitched roof with a minimum slope of 4 feet of vertical rise in 12 feet [4:12 pitch] and eaves extending outward a minimum of 16 inches beyond the nearest vertical wall.

(f) The structure shall be roofed with asphalt shingles or comparable roofing, not including metal roofing.

(g) The Zoning Board of Appeals may not grant any variance from the requirements of (a) through (d). The Zoning Board of Appeals may grant a variance from the requirements of (e) and (f) only if the Board of Appeals specifically finds that such variance will not have an adverse aesthetic or pecuniary impact on the surrounding neighborhood and/or the value of nearby properties.

**(30) Changes in state law or state departments or agencies incorporated. [Adopted by Ord 2014-11]**

(a) Whenever a provision of the zoning ordinance of the City of Richland Center refers to a department of the State of Wisconsin and the name of such department is subsequently changed by statute or other state action or the subject matter jurisdiction of the matter referred to in the ordinance is assigned to a different department or agency of the State, the ordinance provision containing such reference shall be deemed amended as of the effective date of the change of name or assignment of jurisdiction to reflect such change and the City officers charged with maintaining the code of ordinances are empowered to indicate such change in the official version of the Code.

(b) Whenever a provision of the zoning ordinance of the City of Richland Center incorporates by specific reference or refers to a provision of the Wisconsin Statutes and such provision is subsequently renamed, renumbered or amended, the ordinance provision containing such reference shall be deemed amended to reflect such change as of the effective date of the change to the Wisconsin Statutes and the City officers charged with maintaining the code of ordinances are empowered to indicate such change in the official version of the Code.

(c) Whenever a provision of the zoning ordinance of the City of Richland Center incorporates

by specific reference or refers to a provision of the Wisconsin Administrative Code and such provision is subsequently renamed, renumbered or amended, the ordinance provision containing such reference shall be deemed amended to reflect such change as of the effective date of the change to the Wisconsin Administrative Code and the City officers charged with maintaining the code of ordinances are empowered to indicate such change in the official version of the Code.