



**TWO
RIVERS**
WISCONSIN

PLAN COMMISSION SPECIAL MEETING

Monday, September 23, 2024 at 5:30 PM

Council Chambers - City Hall, 3rd Floor
1717 E. Park Street, Two Rivers, WI 54241

AGENDA

1. CALL TO ORDER

2. ROLL CALL

Commission Members: Greg Buckley, Rick Inman, Kay Koach, Kristin Lee, Matt Heckenlaible, Adam Wachowski

3. ACTION ITEMS

- A.** Further consideration of an Amendment to Section 10-1-15G(4)(b)[4] of the zoning ordinance, pertaining to driveways in front and street side yards -- Referred back to Plan Commission by the City Council for recommendation prior to a scheduled October 7, 2024 Public Hearing.

4. FOR DISCUSSION

- A.** Update on proposed Re-Zoning of the property at 1509 - 19th Street from B-1 Business to R-3 One and Two Family Residential -- The Plan Commission recommendation on this Re-Zoning has been referred back to the Plan Commission and will appear on the October 14th Regular Meeting Agenda.

5. ADJOURNMENT

In accordance with the requirements of Title II of the Americans with Disabilities Act (ADA), the City of Two Rivers will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. If you need assistance or reasonable accommodations in participating in this meeting or event due to a disability as defined under the ADA, please call the City Clerk's office at 920-793-5526 or email clerk@two-rivers.org at least 48 hours prior to the scheduled meeting or event to request an accommodation. For additional assistance, individuals with hearing or speech disabilities can call 711 and be connected to a telephone relay system.

It is possible that members of and possibly a quorum of governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no other action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.

MEMORANDUM

To: City Council

From: Gregory E. Buckley
City Manager



Date: September 12, 2024

Subject: Zoning Code Language on Driveways

The Plan Commission at its September 9 meeting held a discussion that included its members, staff and area builder Jim Reif, regarding provisions on driveway width in the City’s Zoning Code.

That language is contained in Section 10-1-15 G(4) of the Zoning Code, which addresses “Permitted Obstructions in Required Yards.” Specifically, our discussion at Plan Commission focused on 10-1-15 G(4)(b), which addresses off-street parking and driveways in front yards and street side yards (i.e., the side yard of a corner lot, along the street).

That language as now written, and as it has existed for many years, limits driveway width to a percentage of lot width: “not to exceed 35 percent of lot width or 35 feet, whichever is less.” It further provides that “However, any lot may have a driveway up to 20 feet in width.”

A full copy of Zoning Code Section 10-1-15, which includes the above-cited language, is attached for your reference (pages 4-13 of 33 pages for this agenda item).

The language in question creates a problem for a house that Mr. Reif is now building on the City’s east side—a redevelopment project on a 50-foot wide lot where the owners wish to have a 26-foot wide driveway to serve a two car garage with 2 individual garage doors. (Per current language, 35 percent of 50 feet is 17.5 feet, so they could at most have a 20-foot wide driveway, which is the widest the cited language allows in this instance.)

But upon review of several driveways around the City, including some installed at new homes in the Sandy Bay Subdivision and elsewhere, it is apparent that the City has not been consistent in its enforcement of this Zoning Code provision—there are a good number of driveways that are wider than what the language allows. Many are typical of what you see in modern homes with three-car garages, but they are wider than they should be per the language quoted above.

To try to address this situation, City staff (the City Engineer, Zoning Administrator and I) put together a draft ordinance based on Green Bay’s driveway ordinance. But it was relatively complicated and did not get a favorable reception from the Plan Commission or the builder. (A copy of that proposed amendment is also attached hereto, pages 14-33 of the 33 pages for this item).

Following discussion, the Plan Commission voted to recommend that the Council “waive the existing driveway regulations for new home construction and ask staff to work out a more complete amendment to the [Zoning] Code.”

Upon discussing this recommendation with our City Attorneys, and further discussing it among staff, we have some concerns about the City Council moving forward with the Plan Commission’s recommendation. First of all, there is no general language in city ordinances about “waiving” Zoning Code requirements. To eliminate the requirements in question would itself take an amendment of the Zoning Code, which could not be accomplished until after notice and a public hearing. And then there would be no regulations on the width or other spatial characteristics of driveways constructed in the City.

As an alternative, the City Engineer and I have worked in the few days since the Plan Commission meeting to develop a relatively simple amendment to the current Zoning Code provisions, which would set maximum driveway width at “not to exceed the width of the garage” plus allow for a driveway to “flare out” to the extent necessary to access an off-street parking space alongside the garage.

This is a relatively simple amendment, with provisions similar to what we found in zoning codes for DePere and Oshkosh. It is still more stringent than the language of Manitowoc’s code, which places hardly restrictions on driveways on private property. But we honestly believe that it is sufficient to allow most of the newer driveway installations we see around the City, and should not create undue problems for people building new homes or expanding their garages.

Our Zoning Code provisions on driveways and off-street parking still warrant further study, but that may take a few months to accomplish. In the meantime, this amendment is probably a better “patch” than just throwing out the existing Zoning Code language on driveways. It is presented on the next page (page 3 of the 33 pages for this item).

So, in lieu of “waiving” or eliminating the existing Zoning Code language on driveways, staff recommends that the Council send this matter back to the Plan Commission, with a request to consider such an amendment to the existing Zoning Code language. If the Council so directs, I will attempt to schedule a special Plan Commission meeting to allow for a public hearing on October 7.

NOTE: As stated above, the Zoning Code regulates driveway width and location on private property. Driveway width at the property line (where the driveway meets the right-of-way, generally at the back of the sidewalk) and the width of the driveway approach and curb cuts within the public street right-of-way are regulated under Section 4-1-11, in the Public Works section of the City Code.

Proposed Revision to Sec 10-1-15 G (b) [4] as It Relates to Driveways in Front and Street Side Yards

Sec. 10-1-15. - Height and area exceptions.

G. Yards to be open upward.

4) *Permitted obstructions in required yards.* The following shall be considered permitted obstructions when located in the required yard specified. Any obstruction not expressly described is prohibited.

(b) In front yards and street side yards:

~~[4] Open off-street vehicle parking on a paved or graveled driveway, provided no vehicle may be parked within five feet of a front property line or within three feet of a side lot line. The maximum width of driveways on private property shall not exceed 35 percent of the lot width or 35 feet, whichever is less. However, any lot may have a driveway up to 20 feet in width.~~

Replace With:

Open off-street vehicle parking on a paved or graveled driveway, provided no vehicle may be parked within five feet of a front property line, within three feet of an interior side lot line or twenty-five (25) feet of a street side lot line.

The minimum width of any driveway on private property shall be 12 feet. The maximum width of any driveway on private property shall not exceed the width of the garage to which said driveway leads. Maximum width shall not exceed 20 feet for properties with no garage.

Provided, however, that if the driveway width on private property is greater than that driveway's width at the edge of the public right-of-way, there shall be a taper of the driveway on the private property that narrows said driveway to the width at the right-of-way. Said taper shall be in a line starting at a point at least five feet from the edge of the right-of-way. Such tapers may be on one or both sides of the driveway.

In addition, driveways may provide access to a parking space located in a side yard and immediately adjacent to the garage, provided that such parking space may be no wider than 12 feet and may not be within three feet of an interior side lot line (twenty-five feet from a street side lot line). The driveway may be widened beyond the edge of the garage only to the extent necessary to provide access to such parking space.

Driveway width at the edge of the public right-of-way and the width of driveway approaches and curb cuts within the public right-of-way are regulated by Section 4-1-11 of this Code, "Curb Cuts and Driveway Approaches."

Sec. 10-1-15. Height and area exceptions.

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- A. *Public and quasi-public buildings.* Churches, schools, hospitals, medical clinics, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 60 feet or five stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- B. *Extraordinary structures.* Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, parapet walls not exceeding two feet in height, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, microwave radio relay structures and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or ordinances of the city.
- C. *Residences.* Residences in the residence districts may be increased in height by not more than ten feet when all yards and other required open spaces are increased by one foot for each foot which such building exceeds the height limit of the district in which it is located.
- D. *Through lots.* Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided that the setback requirements on both streets be complied with.
- E. *Nonconforming lots.* Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record on September 8, 1953, such lot may be occupied by one family.
- F. *Accessory buildings and structures.*
 - (1) *Time of construction.* No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory unless expressly permitted by the board of appeals.
 - (2) *Height.* In all residential districts the maximum height of any detached accessory building shall not exceed the height of the principal building but in no case be higher than 20 feet unless expressly permitted by the board of appeals.
- G. *Yards to be open upward.*
 - (1) Except where otherwise specified in this chapter, every part of a required yard shall be open to the sky unobstructed.
 - (2) *Location of required open space.* All yards, courts, usable open spaces and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.
 - (3) *Required yards for existing buildings.* No yards now or hereafter provided for a building existing on the effective date of this chapter shall subsequently be reduced below, or further reduced if already less than, the minimum required by this chapter for equivalent new construction.
 - (4) *Permitted obstructions in required yards.* The following shall be considered permitted obstructions when located in the required yard specified. Any obstruction not expressly described is prohibited.

(a) In all yards:

- [1] Arbors and trellises, trees, shrubs and plantings.
- [2] Awnings.
- [3] Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, antenna masts or towers, cornices, eaves, gutters and the like, projecting not more than 24 inches.
- [4] Fences, walls and hedges, subject to the provisions of this chapter.
- [5] Flagpoles and garden ornaments.
- [6] Open terraces not over three feet above the average level of the adjoining ground, but not including a permanent roofed-over terrace or porch unless otherwise specifically permitted.
- [7] Recreational accessory uses.
- [8] Steps not over three feet above the ground level which are necessary for access to a permitted building or for access to a zoning lot from a street or alley.
- [9] Walks and driveways.

(b) In front yards and street side yards:

- [1] Open fire escapes, open porches, decks, patios or terraces, including those with roofs but not walls, extending not more than six feet into a required front yard or street side yard, provided that these projections do not encroach in any vision clearance triangle.
- [2] Overhanging eaves and gutters projecting three feet or less into the yard.
- [3] Open off-street vehicle parking spaces when approved by the plan commission in business, industrial, institutional and multifamily residence districts.
- [4] Open off-street vehicle parking on a paved or graveled driveway, provided no vehicle may be parked within five feet of a front property line or within three feet of a side lot line. The maximum width of driveways on private property shall not exceed 35 percent of the lot width or 35 feet, whichever is less. However, any lot may have a driveway up to 20 feet in width.
- [5] Garages in embankments. Where the mean natural grade of a front or street side yard is more than eight feet above the curb level, a private garage may be erected within said yard, provided as follows:
 - [a] That such private garage shall be located not less than five feet from the street lot line;
 - [b] That the floor level of such private garage shall be not more than one foot above the curb level; and
 - [c] That at least one-half the height of such private garage shall be below the mean grade of the yard.
- [6] Produce gardening in front yards existing prior to August 1, 2016. Such front yard produce gardens may not be expanded. New front yard produce gardens are prohibited, except as may be authorized by resolution of city council as part of a pilot program that was put in effect in 2023 and is hereby extended to December 31, 2024. Participation by a property in

said pilot program shall not create any vested right to continue such new gardens beyond December 31, 2024.

- [7] Produce gardening is permitted in street side yards. Such gardens shall not encroach into the minimum required street side yard.
- [8] Garages in front yards.
 - [a] In the aggregate shall not occupy more than 30 percent of any required front yard and not more than 50 percent of non-required front yard areas;
 - [b] Shall be located on a lot being not less than five acres in size;
 - [c] The primary structure on the lot shall be located at least 500 feet from the street on which the property fronts;
 - [d] Garages shall reflect the same minimum setbacks allowed for a principal structure on the lot.
 - [e] Shall be located no closer than three feet from any part of any other building, or structure, except swimming pools as described in subsection H.
 - [f] Shall comply with all applicable municipal and state code provisions.
- [9] Garages in street side yards.
 - [a] Shall be no closer than the required front yard setback;
 - [b] Street side yard setback shall be 25 feet from the lot line;
 - [c] In the aggregate, shall not occupy more than 30 percent of any required street side yard nor more than 50 percent of non-required street side yard areas.
 - [d] Shall be located no closer than three feet from any part of any other building, or structure, except swimming pools as described in subsection H.
 - [e] Shall comply with all applicable municipal and state code provisions.
 - [f] Permitted only where there is a previously existing driveway.
- (c) In rear yards:
 - [1] Open fire escapes, open porches, decks, patios or terraces, including those with roofs but not walls, projecting six feet or less into the required rear yard.
 - [2] Overhanging eaves, bay windows and gutters projecting three feet or less into the required rear yard.
 - [3] Detached accessory buildings and structures such as storage buildings, garages, swimming pools, heating and air-conditioning equipment, wind and solar energy conversion equipment antenna structures, including those mounted on towers or masts or those employing parabolic or similar reflectors, provided such buildings, structures or equipment:
 - [a] In the aggregate shall not occupy more than 30 percent of any required rear yard nor more than 50 percent of non-required rear yard areas.
 - [b] Shall be located no closer than three feet from any part of any other building, structure or property line, except swimming pools as described in subsection H.
 - [c] Shall comply with all applicable municipal and state code provisions.

- [d] Driveways not exceeding 35 percent of the lot width or 35 feet, whichever is less.
- [4] Storage canopies complying with the following:
 - [a] Storage canopies erected prior to June 7, 2021.
 - [i] Shall not exceed 240 square feet in area.
 - [ii] Shall not exceed 14 feet in height.
 - [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof but not walls and not attached to any structure, building, fence or anything permanently located on the ground. Corrugated metal or corrugated fiberglass roofing materials are not permitted.
 - [iv] Shall be limited to one storage canopy per parcel.
 - [v] Shall be located no closer than three feet from any property line.
 - [vi] Shall not be located on a vacant parcel.
 - [b] Storage canopies erected or altered on or after June 7, 2021, and prior to January 1, 2023.
 - [i] Shall not exceed 240 square feet in area.
 - [ii] Shall not exceed 14 feet in height.
 - [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof, with or without walls, and not attached to any structure, building, fence or anything permanently located on the ground. Metal, fiberglass, plastic, composite or any other rigid roof or wall materials are not permitted.
 - [iv] Shall be limited to one storage canopy per parcel.
 - [v] In aggregate, all accessory structures, including canopies, on the premises shall not occupy more than 30 percent of any required rear yard nor more than 50 percent of non-required rear yard.
 - [vi] Shall be located no closer than three feet from any property line.
 - [vii] Shall not be located on a vacant parcel.
 - [viii] Shall not be located on a parcel with a garage.
 - [ix] Shall be removed upon construction of a garage.
 - [x] Shall be removed prior to a change in ownership or tenancy.
 - [xi] Garbage and refuse shall not be stored in the canopy.
 - [xii] Shall be maintained in a reasonable state of repair.
 - [xiii] Shall require a permit prior to installation in accord with the fee schedule in section 1-2-1.
 - [xiv] Violation of any of the above listed provisions shall result in removal of the canopy.

- [5] Open off-street vehicle parking spaces when approved by the plan commission in business, industrial, institutional and multifamily residence districts.
 - [6] Open off-street vehicle storage in single- and two-family residence districts shall be in accord with section 9-6-4.E.
 - [7] Laundry drying equipment.
 - [8] Outdoor kennels or exercise runs for household pets.
 - [9] Produce gardening.
- (d) In interior side yards:
- [1] Open fire escapes, open porches, decks, patios or terraces, including those with roofs but not walls, projecting three feet or less into the required side yard but in no case closer than six feet from a property line.
 - [2] Detached accessory buildings and structures such as storage buildings, garages, swimming pools, heating-air conditioning equipment, wind and solar energy conversion equipment, antenna structures, including those mounted on towers or masts or those employing parabolic or similar reflectors, provided that such buildings, structures or equipment:
 - [a] In the aggregate, shall not occupy more than 30 percent of any required interior side yard nor more than 50 percent of non-required rear yard areas.
 - [b] Shall be located no closer than three feet from any part of any other building, structure or property line, except swimming pools as described in subsection H.
 - [c] Shall comply with all applicable municipal and state code provisions.
 - [d] Driveways not exceeding 35 percent of the lot width or 35 feet, whichever is less.
 - [3] Storage canopies complying with the following:
 - [a] Storage canopies erected prior to June 7, 2021.
 - [i] Shall not exceed 240 square feet in area.
 - [ii] Shall not exceed 14 feet in height.
 - [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof but not walls and not attached to any structure, building, fence or anything permanently located on the ground. Corrugated metal or corrugated fiberglass roofing materials are not permitted.
 - [iv] Shall be limited to one storage canopy per parcel.
 - [v] Shall be located no closer than three feet from any property line.
 - [vi] Shall not be located on a vacant parcel.
 - [b] Storage canopies erected or altered on or after June 7, 2021, and prior to January 1, 2023.
 - [i] Shall not exceed 240 square feet in area.

- [ii] Shall not exceed 14 feet in height.
- [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof, with or without walls, and not attached to any structure, building, fence or anything permanently located on the ground. Metal, fiberglass, plastic, composite or any other rigid roof or wall materials are not permitted.
- [iv] Shall be limited to one storage canopy per parcel.
- [v] In aggregate, all accessory structures, including canopies, on the premises shall not occupy more than 30 percent of any required interior side yard nor more than 50 percent of non-required interior side yard.
- [vi] Shall be located no closer than three feet from any property line.
- [vii] Shall not be located on a vacant parcel.
- [viii] Shall not be located on a parcel with a garage.
- [ix] Shall be removed upon construction of a garage.
- [x] Shall be removed prior to a change in ownership or tenancy.
- [xi] Garbage and refuse shall not be stored in the canopy.
- [xii] Shall be maintained in a reasonable state of repair.
- [xiii] Shall require a permit prior to installation in accord with the fee schedule in section 1-2-1.
- [xiv] Violation of any of the above listed provisions shall result in removal of the canopy.

- [4] Open off-street vehicle parking spaces when approved by the plan commission in business, industrial, institutional and multifamily residence districts.
- [5] Open off-street vehicle storage in single- and two-family residence districts shall be in accord with section 9-6-4.E.
- [6] Laundry drying equipment.
- [7] Produce gardening with a setback of not less than three feet from a property line.

H. *Swimming pools.*

- (1) A "swimming pool," for the purposes of this section, shall mean a structure or basin, either temporarily or permanently installed upon or within the ground, containing an artificial body of water more than 40 square feet or greater than 24 inches in depth for swimming, diving or recreation that is constructed in such a manner that the pool cannot be disassembled for storage without the use of tools.
- (2) *Location.*
 - (a) Swimming pools constructed or installed in the R-1, R-2, R-3 and R-4 districts shall be located on the same lot and in either the rear or the side yard of a principal building. Swimming pools shall not be constructed in the front yard or in a required street yard in such districts. Swimming pools, either open or enclosed, shall be considered the same as

accessory buildings for purposes of calculating the maximum area they may occupy on a lot. Swimming pools may not be located in any type of easement.

- (b) Swimming pools constructed in the B-1, B-2, B-3 and Waterfront Business districts shall not occupy any portion of a required front, side, or rear yard. However, swimming pools may be located in yard areas other than such required yards. Swimming pools may not be located in any type of easement.

(3) *Clearances.*

- (a) Swimming pools shall not be located nearer than six feet from any property line of a building.
- (b) Swimming pools shall be located in accordance with all federal, state and local codes including the National Electric Safety Code (NESC®) 234(e)1, 351(c)1, 351(c)2, Table 234-3, Figure 234-3, and Public Service Commission of Wisconsin (PSCW) Wisconsin State Electrical Code, § PSC 114.234(8), Wis. Adm. Code. These codes will be strictly enforced to ensure the safety of the general public. The proposed location of a swimming pool on a lot must be approved by the city's electric department prior to obtaining a permit to installing or placing the swimming pool on the property.

(4) *Protection.*

- (a) Swimming pools shall be protected so as to prevent unauthorized access by means of a fence, wall or other permanent barrier so designed, constructed and maintained as to completely surround the swimming pool extending to a height of not less than four feet above actual grade. Such barrier shall prevent the passage of an object with a diameter larger than four inches. All gates provided in such barrier shall be equipped with hardware designed to automatically close and latch said gate.
- (b) No fence shall be required for swimming pools which are at least four feet in height above the ground, but all approaches shall require self-closing and latching gates or doors that are capable of being locked. Ladders must contain a mechanism to lock the ladder in an upright position for pools at least four feet in height or must be removed and stored in the principal or an accessory building when the swimming pool is not in use.
- (c) Protection is not required for "kiddie pools." A "kiddie pool" is defined as a portable pool with a maximum surface area of 40 square feet and 24 inches high.

I. *Screening and vision clearance.*

- (1) *Statement of purpose.* This subsection is established to recognize the public and private benefits accrued from functional and aesthetic screening between areas of incompatible land uses, the increasing demand for active and passive recreational areas, the desirability of providing visual screening of certain parking lots, business and manufacturing areas, and the necessity of providing adequate vehicular vision clearance.
- (2) *Off-street parking.* See section 10-1-13.
- (3) *Screening or fencing erected, placed, maintained or grown shall comply with the following provisions:*
 - (a) Screening in front yards shall not exceed a height greater than four feet above the curb level or its equivalent; provided, however, that, within ten feet from any driveway or alley crossing of a street lot line, any screening shall not exceed two feet in height unless it is at least 90 percent open for through vision.

- (b) On a corner lot, screening in the street side yard may extend from the side street rear corner of the structure perpendicular to a distance four feet from the side street property line and continue along the side street to the rear property line. The height of any screening shall not exceed six feet; provided, however, that within ten feet from any driveway screening it shall not exceed two feet in height unless it is at least 90 percent open for through vision.
 - (c) Unless otherwise provided, a vision-barrier fence that is within four feet of the lot line shall not exceed six feet in height.
 - (d) Snow fences may be used temporarily, but in no case shall snow fences be left standing longer than six months during any calendar year.
 - (e) It shall be unlawful for any person to construct or maintain any barbed wire or razor wire fence, except that any such fence above the height of six feet may be permitted for agricultural, industrial or commercial security reasons, with permission from the zoning administrator.
 - (f) It shall be unlawful for any person to construct or maintain any aboveground electrical fence.
 - (g) Fences constructed in a manner in which a supporting framework or posts can be construed to represent a back side shall be installed so that the front side/good side faces the adjacent or abutting property.
 - (h) Screening or fencing shall be located in a manner that allows the owner to maintain the screening or fencing from his side of the property line.
- (4) *Vision clearance.*
- (a) On a corner lot in any residence district, no structure, screening, bush, tree branches or embankment shall be erected, placed, maintained or grown between the heights of three feet and ten feet above the curb level or its equivalent within the triangular space formed by two intersecting street right-of-way lines located a minimum of 25 feet from the intersection thereof in order to provide adequate vehicular vision clearance; provided, however, that a fence so designed, constructed and maintained as to be least 90 percent open for through vision may be constructed in such vision clearance area.
 - (b) On a corner lot in any business or industrial district, no structure, screening, bush, tree branches or embankment of any kind shall be erected, placed, maintained or grown between the heights of three feet and ten feet above the curb level or its equivalent within the triangular space formed by two intersecting street right-of-way lines or their projections and a line joining points on such street right-of-way lines located a minimum of ten feet from the intersection thereof in order to provide adequate vehicular vision clearance; provided, however, that a fence so designed, constructed and maintained as to be 90 percent open for through vision may be constructed in such vision clearance area.
- (5) *Exemptions.* The zoning administrator may modify the provisions for the requirement of screening when suitable screening exists on abutting property, or when he/she determines that such modifications for screening shall be in harmony with the general purpose and intent of this subsection. The zoning administrator may also modify the provisions for the requirement of vision clearance when he determines that such modifications shall be consistent with traffic safety and shall be in harmony with the general purpose and intent of this subsection.

(6) *Existing screening fencing.* Any screening of fencing which exists at the time of the passage of this chapter (October 5, 2009), but does not conform with the provisions thereof, shall not be altered or enlarged without making the entire unit conform with the provisions of this subsection.

J. *Shipping containers and similar conveyances used for storage only in certain zoning districts.*

(1) *Purpose.* This subsection regulates the use of shipping containers and similar conveyances which may be permanently placed outdoors and used for storage purposes only in certain zoning districts in accord with the provisions described herein which are intended to protect the aesthetic qualities of the city.

(2) *Definitions.* As used in this section, the following terms shall have the meanings indicated:

Shipping container. A steel box used for intermodal shipping of products and materials between locations. Such containers are designed and constructed to standards established by the International Organization for Standards (ISO) and are typically 10 feet, 20 feet, 30 feet or 40 feet long.

(3) *Containers prohibited with exceptions.* Except as described herein, the following shall not be placed for storage or residential use in any zoning district in the city: shipping containers, semitrailers, truck bodies, mobile offices, storage containers or other similar conveyances either with or without wheels.

(4) *Exception for contractors' use.* In any zoning district, contractors may temporarily use the above-listed conveyances in conjunction with construction activities duly authorized by a permit issued by the city for a construction project, alteration project or demolition project.

(5) *Exception or household or commercial moving purposes.* In any zoning district, contractors may temporarily use the above-listed conveyances in conjunction with construction activities duly authorized by a permit issued by the city for a construction project, alteration project or demolition project.

(6) *Exception for the i-1, i-2 and i-3 industrial districts.* Shipping containers or similar conveyances may be permanently placed outdoors and used for storage in the districts noted above in accord with the following requirements:

- (a) The use of this container, including its contents, shall be accessory to the principal building or use of the premises.
- (b) A container shall not be permitted on vacant lots.
- (c) A container shall be located in the rear yard only and shall be placed on a pad consisting of stone or gravel or concrete or asphalt or a combination of those materials.
- (d) The container location shall comply with setback requirements as if it were an accessory building. Where a residential use is immediately adjacent to the proposed location of a container, the minimum setback may be increased in combination with required screening or fencing as determined by the zoning administrator.
- (e) Additional requirements that may be determined by the zoning administrator include painting to match the color of the principal building, fencing, landscaping, lighting, architectural modifications, maintenance standards and site improvements to manage stormwater drainage.
- (f) The removal of a shipping container or similar conveyance may be ordered by the city due to lack of maintenance or if it becomes a public nuisance. The cost for such removal shall be paid by the property owner. If the property owner is negligent in paying for its removal, the city may charge the removal against the property.

- (g) Prior to replacement of any shipping container or similar conveyance, the zoning administrator shall issue a permit in accord with these requirements including the payment of the applicable permit fee.

(Amended 6-7-2021; Ord. No. 2023-043, § 1, 3-20-2023; Ord. No. 2023-207, § 1, 12-18-2023; Ord. No. 2024-077, § 1, 4-22-2024)

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

This is a proposed amendment to Zoning Code Provisions regarding off-street parking and driveways and excerpts from Title 4 of the Municipal Code (Public Works) regarding curb cuts and driveway approaches is included for reference and shown in BLUE.

Revised 9-06-2024

Sec. 10-1-13. Off-street parking and loading.

- A. *Purpose.* The purpose of this section is to prevent or alleviate the congestion of the public streets and promote the safety and welfare of the public by establishing minimum requirements for off-street parking and loading in accordance with the use to which the property is put.
- B. *Applicability:*
 - (1) In all zoning districts unless otherwise specifically provided, all newly established uses and all uses which are expanded shall provide off-street parking and loading space in accordance with the standards set forth in this section.
 - (2) Within that area lying between the West Twin River and 22nd Street and between Jefferson and Adams Streets, which area shall be deemed to include properties on both sides of Jefferson, Adams and 22nd Streets, the following special provisions shall apply:
 - (a) Newly established and/or expanded churches need provide only 50 percent of the specified off-street parking space.
 - (b) Newly established, converted or expanded theaters, arenas, auditoriums and similar places of public gathering as well as residences shall provide 100 percent of the off-street parking and loading space.
 - (c) Newly established, converted or expanded uses not specifically identified in subsection B.(2)(a) and (b) above are exempt from the requirements for off-street parking and loading space; however, the provisions of section 10-1-13.B.(6) will apply.
 - (3) Unless otherwise herein provided, in the event that within any five-year period an existing use is expanded to the extent of ten percent or more in floor area, off-street parking and loading space shall be provided based on the additional area in accordance with the standards set forth in this section. Any off-street parking spaces added since adoption of this chapter shall count toward the spaces needed to meet this requirement.
 - (4) Unless otherwise herein provided, in the event that within any five-year period an existing use is expanded to the extent of 50 percent or more in floor area, in addition to providing additional off-street parking and loading as provided in subsection B.(3) above, all existing off-street parking and loading space shall be brought into conformance with the standards set forth in this section.
 - (5) Off-street parking and loading facilities in existence on the effective date of this chapter and located on the same lot as the building or use served shall not hereafter be reduced below the requirements for a similar new building or use under the provisions of this section.
 - (6) Nothing in this section shall be deemed to prevent the voluntary establishment or expansion of off-street parking or loading facilities to serve any existing use, provided that all standards herein governing the location, design, and operation of such facilities are met.

- C. *Permit application.* Applications for off-street parking lot and driveway permits shall be submitted to the zoning administrator. Approval shall be required of any driveway apron or curb cut in accordance with section 4-1-11.
- D. *Construction drawings.* Construction drawings shall show the following information:
 - (1) Plot plan and property description.
 - (2) Drawings shall be engineer's scale of preferably one inch equals 20 feet.
 - (3) All buildings and utility lines shall be shown with their size and location.
 - (4) Paved areas shall be shown and dimensioned.
 - (5) The traffic pattern and parking layout shall be indicated.
 - (6) Drainage control shall be indicated by finish grade elevations or directional indications of slopes.
 - (7) The size and location of ingress and egress openings.
 - (8) The location, size and species of all landscape plantings.
 - (9) The location of all lighting systems.
- E. *Permit fees.* The parking lot or driveway permit fee shall be as set forth in section 1-2-1. A minimum penalty of \$100.00 shall be charged for failure to obtain the necessary permits prior to starting construction.
- F. *Definitions.* As used in this section, the following terms shall have the meanings indicated:

Floor area, usable. For purposes of computing parking requirements, in that area to be used for the sale of merchandise or services or for use to serve patrons, clients or customers, floor area shall be measured from the interior faces of the exterior walls. Area excluded from usable floor area includes areas principally used for storage or processing of merchandise, hallways, stairways, elevator shafts, areas for utilities or sanitary facilities, and mechanical areas.

Parking space. An area not in a street or alley and having dimensions of not less than nine feet by 18 feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

- G. *Parking on lot.* All parking spaces required herein shall be located within 300 feet of the parcel with the building or use served. Driveways and parking for One- or two-family residential R-1, R-2 and R-3 zoning districts parking must be on the same lot with the building or use served, see Section 10-1-13 N for additional requirements.
- H. *Joint use of parking areas.* Up to 50 percent of the parking spaces required for theaters, public auditoriums, bowling alleys, or nightclubs, and up to 100 percent of the parking spaces required for churches or school auditoriums, may be provided and used jointly by banks, savings and loans, offices, service establishments and similar uses not normally open, used or operated during the same hours as those listed above; in such event an easement to which the city shall be a third party shall be recorded with the deeds.
- I. *Parking space for handicapped.* Parking spaces designed to accommodate the handicapped shall be provided in accordance with the State Building Code.
- J. *Variations.* Variations to this section may be granted in cases of hardship or practical difficulties by the board of appeals in accordance with the provisions of this section.
- K. *Design standards.*
 - (1) *Applicability.* These standards shall apply to parking areas containing five or more spaces.
 - (2) *Drainage.* On-site storm drainage shall be provided in accordance with the State Plumbing Code, Ch. SPS 383, Wis. Adm. Code, and the city plumbing code.

- (3) *Protection devices.* Barriers, curbing or wheel stops shall be installed and so located to prevent any portion of a vehicle from projecting beyond property lines. Such barriers, curbs, or wheel stops shall be so constructed and anchored to prevent their dislocation.
- (4) *Surface areas.* Surfacing of parking areas shall be either:
 - (a) Concrete: minimum four inches thick of at least five-bag mix over an adequate base; or
 - (b) Asphalt: minimum two-inch thickness over four-inch thickness of compacted granular base.
 - (c) Other materials: crushed stone, gravel or other suitable materials of type, thickness and grade, subject to prior approval by the zoning administrator, which shall be maintained in a dust-free condition.
- (5) *Lighting.* All parking lot lighting fixtures (whether required by code or not) shall be of a "full-cut-off" type to avoid light spill onto adjacent properties.
- (6) *Buffering.*
 - (a) When parking is located on property adjacent to a residential zoning district or residential use, the surfaced areas shall either:
 - [1] Be set back a minimum of five feet from side and rear property lines, and the setback area shall be devoted to landscaping which creates a screen to buffer the effect of noise, light or visual appearance on the adjacent residential property, or
 - [2] Shall provide on the lot line, a four-foot-high fence or wall which will provide at least 50 percent screening capability to separate and buffer the parking lot from the residential property.
 - (b) Also see section 11-1-11.D. for provisions for landscape buffer yards around parking areas in the central business district.
- (7) *Landscaping.* Landscaping materials shall be of a hardy variety common to the geographic area. Plants shall be of sufficient size as to provide at least 50 percent screening capability within five years when adjacent to a residential district or use. Evergreens or dense deciduous shrubs are suggested. Landscaping shall be maintained in a healthy and attractive manner.
- (8) *Planting areas.* A contiguous parking area of 50,000 square feet or greater shall provide planting areas, located in such a manner as to reduce the uninterrupted expanse of hard surface, for five percent of the surface area of the lot. Planting areas shall be in addition to any buffer required adjacent to residentially zoned or used property.

L. *Required space for specific uses.*

Residential	
1- or 2-family	2 per dwelling unit
Multiple-family	1.5 per dwelling unit
Housing for the elderly	1 for each 2 dwelling units; should units revert to general occupancy, additional spaces must be provided
Fraternity, sorority or similar group homes	2 plus 1 for every 6 beds
Institutional	
Museums	1 for each 500 square feet of usable floor area
Churches or temples	1 for each 8 seats (24-inch seats) in the main auditorium
Hospitals	1 for each 1 bed
Homes for aged, convalescent home, or similar use	1 for each 6 beds

College or senior high school	1 for each 8 seats in the main auditorium, or 3 spaces for each classroom, whichever is greater
Elementary or junior high school	1 for each 10 seats in the in the auditorium or main assembly room, or 1 space for each classroom, whichever is greater
Sports arena, stadium, gymnasium, auditorium or theater (except school)	1 for each 5 seats or seating spaces
Community center, dance halls, clubs, union halls, assembly hall or similar use	1 for each 100 square foot of usable floor area
Golf courses open to the general public, except miniature or "par-three" type	6 for each golf hole, plus any requirements of any restaurant or bar
Business	
Shopping centers or discount department stores containing at least 25,000 gross square feet	4 per 1,000 square feet of usable floor area
Furniture and appliance, household equipment, repair shops, showroom of tradesman, and similar uses	1 per each 1,000 square feet of usable floor area
Supermarket, self-service food or beverage shop, retail stores except as otherwise specified, personal services	1 per each 200 square feet of usable floor area
Restaurant, tavern, nightclub, or similar recreation or amusement establishment	1 per each 100 square feet of usable floor area
Laundromats and coin-operated dry cleaners	1 for each 2 washing machines
Drive-in car washes, automatic	15 standing spaces for each vehicle of capacity in the washing bay, plus 1 space for each 2 employees
Car washes, self-service	3 standing spaces for each washing bay
Drive-in banks	4 standing spaces for each drive-in window in addition to 1 space for each employee and 1 for manager
Drive-in restaurant or food product outlet	1 for each vehicle connected with the business, 1 for the owner or manager, 1 for each 2 employees on duty when fully staffed, plus spaces adequate in number, as determined by the plan commission, to serve the public
Filling station	1 for each vehicle connected with the business, 1 for each employee on duty when fully staffed, 1 for the owner or manager, plus 3 for each bay intended for service, repair or other use
Bowling alley	5 for each alley in addition to requirements for restaurants or bars or assembly rooms
Miniature or par-three golf courses	1 for each golf hole
Mortuary establishment	1 for each 50 square feet of usable floor space in public service area
Motels, hotels, or other commercial lodging establishment	1 for each 1 occupancy unit plus any requirements of restaurants, auditorium, or retail services located within the building
Offices	
Business, professional public offices, banks, savings and loans, or dental clinics	1 for every 300 square feet of usable floor space
Medical clinic or office involving patient care	1 for every 200 square feet of usable floor space
Industrial	

Manufacturing or industrial establishments, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment	1 for every 2 employees in the largest shift, plus space to accommodate all trucks and other vehicles in connection therewith
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M. Loading requirements.

- (1) There shall be provided at the time any building is erected or expanded off-street loading space in accordance with the requirements which follow. For the purpose of this section, a loading space shall be so designed and maintained as to accommodate the type of delivery vehicles contemplated, but shall not be less than 12 feet wide and 30 feet in length, shall be surfaced with a dustless all-weather material capable of bearing a live load of 200 pounds per square foot, shall be located on the same lot as the use served and shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement and shall be subject to approval by the zoning administrator.
- (2) *Office buildings and hotels.*
 - (a) When located in the B-2 or B-3 district, one space for 5,000 square feet to 50,000 square feet of gross floor area; two spaces for 50,000 square feet to 200,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area in excess of 200,000 square feet.
 - (b) When located in the B-1, I or R district, one space for 20,000 square feet to 50,000 square feet of gross floor area; two spaces for 50,000 square feet to 200,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area in excess of 200,000 square feet.
- (3) *Retail or service establishment or wholesale and business uses:*
 - (a) When located in the B-2 or B-3 district, one space for 2,000 square feet to 20,000 square feet of gross floor area; two spaces for 20,000 square feet to 100,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area in excess of 100,000 square feet.
 - (b) No building, or part thereof, in the B-2 district heretofore erected, which is used for any of the purposes specified above, shall hereafter be enlarged or extended unless off-street loading space is provided in accordance with the provisions of this section.
 - (c) When located in the B-1, R or I district, one space for 4,000 square feet to 20,000 square feet of gross floor area; two spaces for 20,000 square feet to 100,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area in excess of 100,000 square feet.
 - (d) No building or part thereof in the B-1, R or I district heretofore erected, which is used for any of the purposes specified above, shall hereafter be enlarged or extended to provide a gross floor area of 25,000 square feet or more unless off-street loading space is provided in accordance with the provisions of this section.
- (4) Manufacturing or industrial use. When located in the B-1 or I district, one for 5,000 square feet to 25,000 square feet of gross floor area; one additional space for each 100,000 square feet of gross floor area in excess of 25,000 square feet.

(Amended 5-4-2020)

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

N. Single-family and two-family residential R-1, R-2 and R-3 zoning district parking and driveway requirements.

The following requirements are required for new, modified or reconstructed single-family and two-family residential R-1, R-2 and R-3 zoning district parking and driveway from the effective date of (October 1, 2024).

Driveways shall lead from the public right-of-way directly to a garage door opening or to a legal surface parking space. Driveways are regulated as follows:

- (1) *Number of driveways.* Single-family uses are permitted one driveway per lot unless otherwise regulated in this chapter, (Circular, through or alley) subject to the design regulations specified herein. Two-family uses are permitted two driveways per lot unless otherwise regulated in this chapter, subject to the design regulations specified herein.
- (2) *Minimum driveway setback from property lines.*
 - a. Driveways shall not be built within three (3) feet of the side property line. An exception can be granted with Plan Commission approval and a recorded easement or agreement between the owners of abutting properties.
 - b. *Detached garages.* Driveways leading to detached garages shall meet the applicable side or rear setbacks for accessory structures established in the district in which it is situated or shall meet the side setback of an existing detached garage, whichever is less.
 - c. *Attached garages.* Driveways leading to attached garages shall meet the applicable side or rear setbacks for principal structures established in the district in which it is situated or shall meet the side setback of the existing attached garage, whichever is less.
 - d. *Uncovered parking.* Driveways leading to uncovered parking areas shall meet the applicable side or rear setbacks established within the parking section or shall meet the side setback of the existing legal uncovered parking area, whichever is less.

Sec. 4-1-11. Curb cuts and driveway approaches. [FOR REFERENCE PURPOSES ONLY]

Curb cuts and driveway approaches constructed within the city right-of-way shall be constructed in accordance with the requirements of the department of public works as follows.

- A. Residential driveway approaches shall meet the following conditions:
 - (1) The maximum width shall be no greater than 30 percent of the lot width or 35 feet, whichever width is the smallest.
 - (2) The minimum width of a residential driveway approach shall be 12 feet.
 - (3) The driveway approach width shall be measured at the right-of-way line.
- B. Commercial driveway approaches shall meet the following conditions:
 - (1) The maximum width shall be 35 feet.
 - (2) The minimum width shall be 12 feet.
 - (3) A commercial driveway can have up to two entrances, provided there is a minimum separation of ten feet between driveways at the right-of-way line.
 - (4) The driveway approach width shall be measured at the right-of-way line.
- C. A residential or commercial driveway shall be located no closer than ten feet from the end of the radius of an intersection with the desirable distance to be a minimum of 20 feet.
- D. A corner residential lot can have two driveway approaches if it meets the following conditions:

- (1) The primary driveway approach shall be no greater than 30 percent of the lot width or 35 feet, whichever width is the smallest. The minimum width of a residential driveway approach shall be 12 feet.
- (2) Secondary driveway approach shall be no greater than 15 feet wide.

E. A residential lot (use) that fronts only one street can have two driveway approaches if it meets the following requirements:

- (1) The combined width of the primary driveway approach and secondary driveway approach shall be no greater than 45 percent of the lot width or 48 feet, whichever width is the smallest. The minimum width of a residential driveway approach shall be 12 feet.
 - (2) The primary driveway approach or secondary driveway approach shall be no greater than 30 percent of the lot width or 35 feet, whichever width is the smallest.
 - (3) The minimum separation of the primary driveway and the secondary driveway at the right-of-way line shall be ten feet.
- F. No driveway shall be built within three feet of the property line.

(3) *Driveway width.*

- a. Driveways shall be a minimum width of twelve (12) feet. Driveways leading to garages are limited to a maximum width as specified in section 4-1-11 at the property line and 2½ foot apron flares at the curb/pavement line, but within the property may increase to the “width of the garage” as hereinafter provided or to provide access to other legal parking spaces.

“Width of the garage” is defined as being 24 inches on either side of a single garage door or 24 inches on either side of the outermost garage doors, in the case of multiple doors on the same building face.

Provided, however, that in no instance shall a driveway width or cumulative driveway widths exceed 50 percent of the lot width.

The maximum driveway width may be further limited in certain other instances, as provided herein.

See Figure 3.A: Single-Family and Two-Family Drive Width and 3.B: Single-Family and Two-Family Drive Width-Enlarged with Taper.

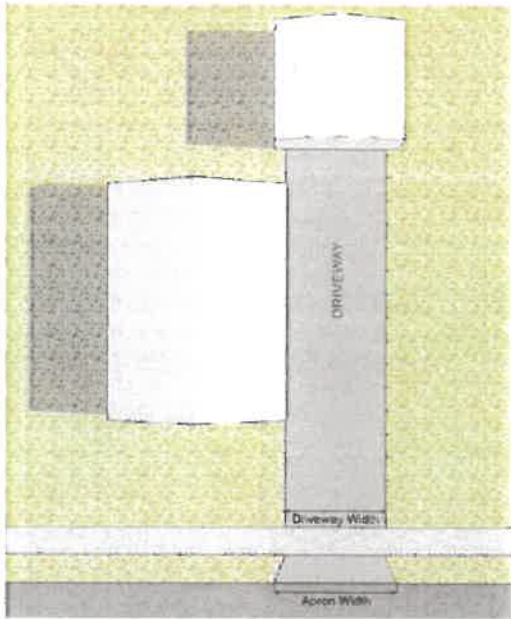


Fig. 3.A: Single & Two-Family Drive Width—Standard

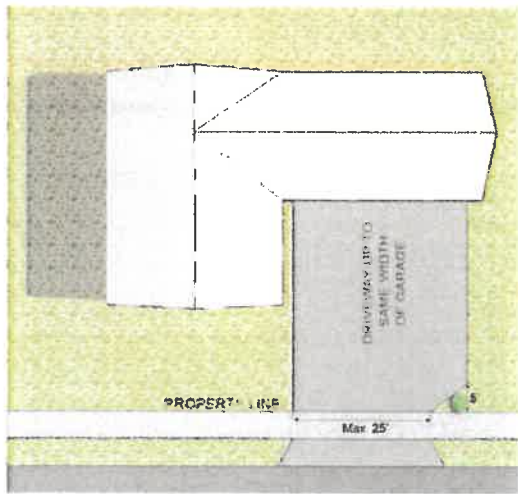


Fig. 3.B: Single & Two-Family Drive Width—Enlarged with Taper

- b. Where no garage exists, the maximum driveway width shall be 12 feet.
- c. Where the width of the driveway at the garage or other legal parking space exceeds the maximum width of the driveway at the property line, the driveway shall be tapered between the garage or the edge of a legal uncovered space and the property line starting a minimum of five feet inside the parcel. If said taper "triangle" is found to be driven over and in a deteriorated state, the City may require the installation of vegetation or other item designed to prohibit vehicular trespass. See Figure 3.C: Single-Family and Two-Family Drive Width-Taper Detail. When leading to a legal uncovered space, the driveway width shall comply with section 4-1-11.

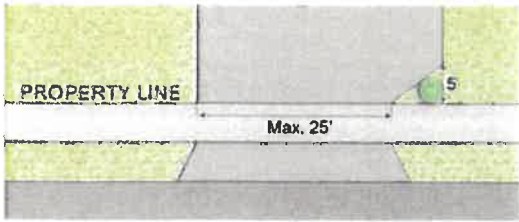


Fig. 3.C: Single & Two-Family Drive Width—Taper Detail

- d. Driveways for two-family dwellings with adjacent garages are limited to the 25 feet maximum width at the property line for each individual driveway. Each individual driveway may be separated by a minimum of a two-foot buffer area extending the full length from the property line to the garage/uncovered parking space. The separation area shall contain vegetation or other feature designed to limit vehicular trespass. See Figure 4: Two-Family Drive Separation.

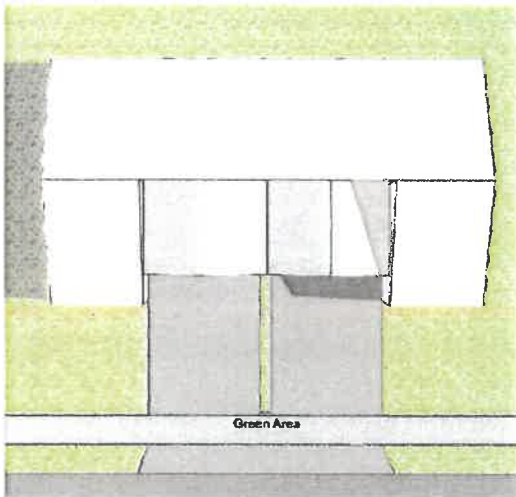


Fig. 4: Two-Family Drive Separation

- e. Side-loading drives. The maximum width of driveway leading to a side-loaded garage shall not exceed 12 feet, except for the area directly leading of the garage, where it can be increased to the width of the garage. See Figure 5.A: Alternative Single-Family and Two-Family Drives-Side Loading. The driveway shall not be located within the side yard setback.
- f. Circular drives. The maximum width of circular, horseshoe, and similar type driveways shall not exceed 12 feet, except for the area directly leading of the garage, where it can be increased to the width of the garage. See Figure 5.B: Alternative Single-Family and Two-Family Drives-Circular.
 1. The driveway shall not be located within the side yard setback.
 2. The inside edge of the arc of the driveway shall be at least 15 feet from the lot line.
 3. The interior area between the drive and the street must be landscaped.
 4. Must obtain Plan Commission approval.

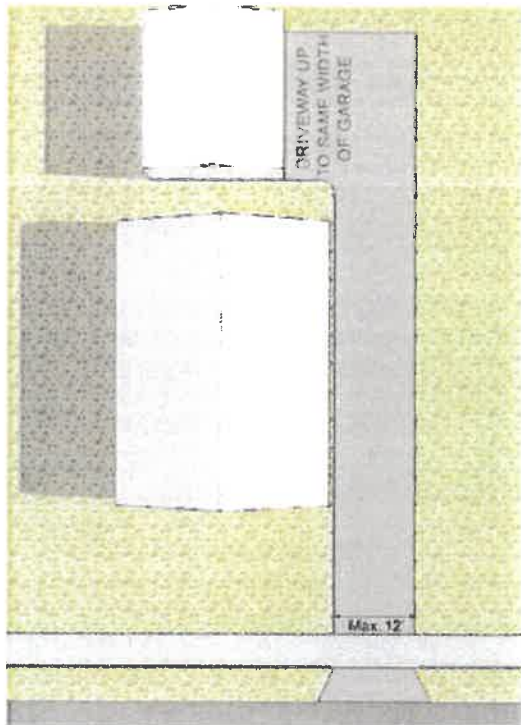


Fig. 5.A: Alternative Single & Two-Family Drives—Side Loading

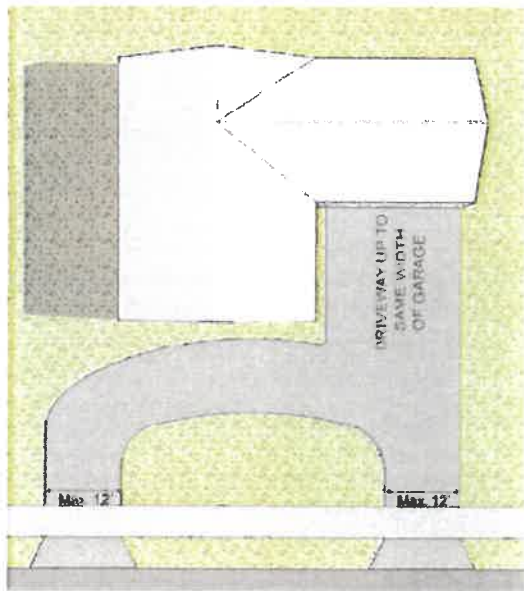


Fig. 5.B: Alternative Single & Two-Family Drives—Circular

- g Alley drives. The driveway may extend to the garage opening or may extend into the lot for 30 feet in width and 40 feet in depth but shall not extend into the side yard setbacks. See Figure 5.C: Alternative Single-Family and Two-Family Drives-Alley

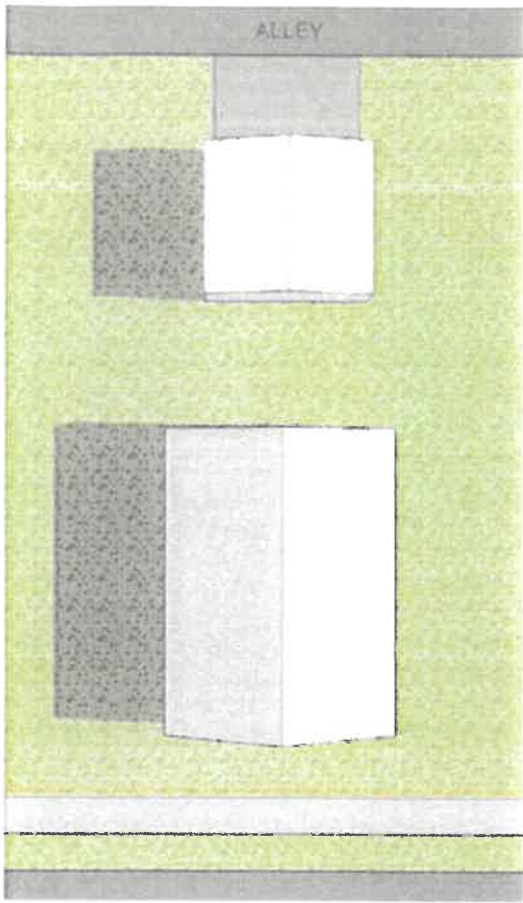


Fig. 5.C: Alternative Single & Two-Family Drives—Alleys

- h. In no case shall the maximum driveway width be cumulatively greater than 50 percent of the lot width.

Sec. 10-1-15. Height and area exceptions.

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- A. *Public and quasi-public buildings.* Churches, schools, hospitals, medical clinics, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 60 feet or five stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- B. *Extraordinary structures.* Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, parapet walls not exceeding two feet in height, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, microwave radio relay structures and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or ordinances of the city.

- C. *Residences.* Residences in the residence districts may be increased in height by not more than ten feet when all yards and other required open spaces are increased by one foot for each foot which such building exceeds the height limit of the district in which it is located.
- D. *Through lots.* Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided that the setback requirements on both streets be complied with.
- E. *Nonconforming lots.* Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record on September 8, 1953, such lot may be occupied by one family.
- F. *Accessory buildings and structures.*
 - (1) *Time of construction.* No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory unless expressly permitted by the board of appeals.
 - (2) *Height.* In all residential districts the maximum height of any detached accessory building shall not exceed the height of the principal building but in no case be higher than 20 feet unless expressly permitted by the board of appeals.
- G. *Yards to be open upward.*
 - (1) Except where otherwise specified in this chapter, every part of a required yard shall be open to the sky unobstructed.
 - (2) *Location of required open space.* All yards, courts, usable open spaces and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.
 - (3) *Required yards for existing buildings.* No yards now or hereafter provided for a building existing on the effective date of this chapter shall subsequently be reduced below, or further reduced if already less than, the minimum required by this chapter for equivalent new construction.
 - (4) *Permitted obstructions in required yards.* The following shall be considered permitted obstructions when located in the required yard specified. Any obstruction not expressly described is prohibited.
 - (a) In all yards:
 - [1] Arbors and trellises, trees, shrubs and plantings.
 - [2] Awnings.
 - [3] Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, antenna masts or towers, cornices, eaves, gutters and the like, projecting not more than 24 inches.
 - [4] Fences, walls and hedges, subject to the provisions of this chapter.
 - [5] Flagpoles and garden ornaments.
 - [6] Open terraces not over three feet above the average level of the adjoining ground, but not including a permanent roofed-over terrace or porch unless otherwise specifically permitted.
 - [7] Recreational accessory uses.
 - [8] Steps not over three feet above the ground level which are necessary for access to a permitted building or for access to a zoning lot from a street or alley.
 - [9] Walks and driveways.

- (b) In front yards and street side yards:
 - [1] Open fire escapes, open porches, decks, patios or terraces, including those with roofs but not walls, extending not more than six feet into a required front yard or street side yard, provided that these projections do not encroach in any vision clearance triangle.
 - [2] Overhanging eaves and gutters projecting three feet or less into the yard.
 - [3] Open off-street vehicle parking spaces when approved by the plan commission in business, industrial, institutional and multifamily residence districts.
 - [4] ~~Open off street vehicle parking on a paved or graveled driveway, provided no vehicle may be parked within five feet of a front property line or within three feet of a side lot line. The maximum width of driveways on private property shall not exceed 35 percent of the lot width or 35 feet, whichever is less. However, any lot may have a driveway up to 20 feet in width.~~

Driveways as otherwise specified in section 10-1-13.
 - [5] Garages in embankments. Where the mean natural grade of a front or street side yard is more than eight feet above the curb level, a private garage may be erected within said yard, provided as follows:
 - [a] That such private garage shall be located not less than five feet from the street lot line;
 - [b] That the floor level of such private garage shall be not more than one foot above the curb level; and
 - [c] That at least one-half the height of such private garage shall be below the mean grade of the yard.
 - [6] Produce gardening in front yards existing prior to August 1, 2016. Such front yard produce gardens may not be expanded. New front yard produce gardens are prohibited, except as may be authorized by resolution of city council as part of a pilot program that was put in effect in 2023 and is hereby extended to December 31, 2024. Participation by a property in said pilot program shall not create any vested right to continue such new gardens beyond December 31, 2024.
 - [7] Produce gardening is permitted in street side yards. Such gardens shall not encroach into the minimum required street side yard.
 - [8] Garages in front yards.
 - [a] In the aggregate shall not occupy more than 30 percent of any required front yard and not more than 50 percent of non-required front yard areas;
 - [b] Shall be located on a lot being not less than five acres in size;
 - [c] The primary structure on the lot shall be located at least 500 feet from the street on which the property fronts;
 - [d] Garages shall reflect the same minimum setbacks allowed for a principal structure on the lot.
 - [e] Shall be located no closer than three feet from any part of any other building, or structure, except swimming pools as described in subsection H.
 - [f] Shall comply with all applicable municipal and state code provisions.
 - [9] Garages in street side yards.
 - [a] Shall be no closer than the required front yard setback;

- [b] Street side yard setback shall be 25 feet from the lot line;
 - [c] In the aggregate, shall not occupy more than 30 percent of any required street side yard nor more than 50 percent of non-required street side yard areas.
 - [d] Shall be located no closer than three feet from any part of any other building, or structure, except swimming pools as described in subsection H.
 - [e] Shall comply with all applicable municipal and state code provisions.
 - [f] Permitted only where there is a previously existing driveway.
- (c) In rear yards:
- [1] Open fire escapes, open porches, decks, patios or terraces, including those with roofs but not walls, projecting six feet or less into the required rear yard.
 - [2] Overhanging eaves, bay windows and gutters projecting three feet or less into the required rear yard.
 - [3] Detached accessory buildings and structures such as storage buildings, garages, swimming pools, heating and air-conditioning equipment, wind and solar energy conversion equipment antenna structures, including those mounted on towers or masts or those employing parabolic or similar reflectors, provided such buildings, structures or equipment:
 - [a] In the aggregate shall not occupy more than 30 percent of any required rear yard nor more than 50 percent of non-required rear yard areas.
 - [b] Shall be located no closer than three feet from any part of any other building, structure or property line, except swimming pools as described in subsection H.
 - [c] Shall comply with all applicable municipal and state code provisions.
 - [d] ~~Driveways not exceeding 35 percent of the lot width or 35 feet, whichever is less.~~
Driveways as otherwise specified in section 10-1-13.
 - [4] Storage canopies complying with the following:
 - [a] Storage canopies erected prior to June 7, 2021.
 - [i] Shall not exceed 240 square feet in area.
 - [ii] Shall not exceed 14 feet in height.
 - [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof but not walls and not attached to any structure, building, fence or anything permanently located on the ground. Corrugated metal or corrugated fiberglass roofing materials are not permitted.
 - [iv] Shall be limited to one storage canopy per parcel.
 - [v] Shall be located no closer than three feet from any property line.
 - [vi] Shall not be located on a vacant parcel.
 - [b] Storage canopies erected or altered on or after June 7, 2021, and prior to January 1, 2023.

- [i] Shall not exceed 240 square feet in area.
- [ii] Shall not exceed 14 feet in height.
- [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof, with or without walls, and not attached to any structure, building, fence or anything permanently located on the ground. Metal, fiberglass, plastic, composite or any other rigid roof or wall materials are not permitted.
- [iv] Shall be limited to one storage canopy per parcel.
- [v] In aggregate, all accessory structures, including canopies, on the premises shall not occupy more than 30 percent of any required rear yard nor more than 50 percent of non-required rear yard.
- [vi] Shall be located no closer than three feet from any property line.
- [vii] Shall not be located on a vacant parcel.
- [viii] Shall not be located on a parcel with a garage.
- [ix] Shall be removed upon construction of a garage.
- [x] Shall be removed prior to a change in ownership or tenancy.
- [xi] Garbage and refuse shall not be stored in the canopy.
- [xii] Shall be maintained in a reasonable state of repair.
- [xiii] Shall require a permit prior to installation in accord with the fee schedule in section 1-2-1.
- [xiv] Violation of any of the above listed provisions shall result in removal of the canopy.

- [5] Open off-street vehicle parking spaces when approved by the plan commission in business, industrial, institutional and multifamily residence districts.
- [6] Open off-street vehicle storage in single- and two-family residence districts shall be in accord with section 9-6-4.E.
- [7] Laundry drying equipment.
- [8] Outdoor kennels or exercise runs for household pets.
- [9] Produce gardening.
- [10] Driveways as otherwise specified in section 10-1-13.

(d) In interior side yards:

- [1] Open fire escapes, open porches, decks, patios or terraces, including those with roofs but not walls, projecting three feet or less into the required side yard but in no case closer than six feet from a property line.
- [2] Detached accessory buildings and structures such as storage buildings, garages, swimming pools, heating-air conditioning equipment, wind and solar energy conversion equipment, antenna structures, including those mounted on towers or masts or those employing parabolic or similar reflectors, provided that such buildings, structures or equipment:

- [a] In the aggregate, shall not occupy more than 30 percent of any required interior side yard nor more than 50 percent of non-required rear yard areas.
- [b] Shall be located no closer than three feet from any part of any other building, structure or property line, except swimming pools as described in subsection H.
- [c] Shall comply with all applicable municipal and state code provisions.
- [d] ~~Driveways not exceeding 35 percent of the lot width or 35 feet, whichever is less.~~

Driveways as otherwise specified in section 10-1-13.

- [3] Storage canopies complying with the following:
 - [a] Storage canopies erected prior to June 7, 2021.
 - [i] Shall not exceed 240 square feet in area.
 - [ii] Shall not exceed 14 feet in height.
 - [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof but not walls and not attached to any structure, building, fence or anything permanently located on the ground. Corrugated metal or corrugated fiberglass roofing materials are not permitted.
 - [iv] Shall be limited to one storage canopy per parcel.
 - [v] Shall be located no closer than three feet from any property line.
 - [vi] Shall not be located on a vacant parcel.
 - [b] Storage canopies erected or altered on or after June 7, 2021, and prior to January 1, 2023.
 - [i] Shall not exceed 240 square feet in area.
 - [ii] Shall not exceed 14 feet in height.
 - [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof, with or without walls, and not attached to any structure, building, fence or anything permanently located on the ground. Metal, fiberglass, plastic, composite or any other rigid roof or wall materials are not permitted.
 - [iv] Shall be limited to one storage canopy per parcel.
 - [v] In aggregate, all accessory structures, including canopies, on the premises shall not occupy more than 30 percent of any required interior side yard nor more than 50 percent of non-required interior side yard.
 - [vi] Shall be located no closer than three feet from any property line.
 - [vii] Shall not be located on a vacant parcel.
 - [viii] Shall not be located on a parcel with a garage.
 - [ix] Shall be removed upon construction of a garage.
 - [x] Shall be removed prior to a change in ownership or tenancy.

- [xi] Garbage and refuse shall not be stored in the canopy.
 - [xii] Shall be maintained in a reasonable state of repair.
 - [xiii] Shall require a permit prior to installation in accord with the fee schedule in section 1-2-1.
 - [xiv] Violation of any of the above listed provisions shall result in removal of the canopy.
- [4] Open off-street vehicle parking spaces when approved by the plan commission in business, industrial, institutional and multifamily residence districts.
 - [5] Open off-street vehicle storage in single- and two-family residence districts shall be in accord with section 9-6-4.E.
 - [6] Laundry drying equipment.
 - [7] Produce gardening with a setback of not less than three feet from a property line.
 - [8] Driveways as otherwise specified in section 10-1-13.

H. *Swimming pools.*

- (1) A "swimming pool," for the purposes of this section, shall mean a structure or basin, either temporarily or permanently installed upon or within the ground, containing an artificial body of water more than 40 square feet or greater than 24 inches in depth for swimming, diving or recreation that is constructed in such a manner that the pool cannot be disassembled for storage without the use of tools.
- (2) *Location.*
 - (a) Swimming pools constructed or installed in the R-1, R-2, R-3 and R-4 districts shall be located on the same lot and in either the rear or the side yard of a principal building. Swimming pools shall not be constructed in the front yard or in a required street yard in such districts. Swimming pools, either open or enclosed, shall be considered the same as accessory buildings for purposes of calculating the maximum area they may occupy on a lot. Swimming pools may not be located in any type of easement.
 - (b) Swimming pools constructed in the B-1, B-2, B-3 and Waterfront Business districts shall not occupy any portion of a required front, side, or rear yard. However, swimming pools may be located in yard areas other than such required yards. Swimming pools may not be located in any type of easement.
- (3) *Clearances.*
 - (a) Swimming pools shall not be located nearer than six feet from any property line of a building.
 - (b) Swimming pools shall be located in accordance with all federal, state and local codes including the National Electric Safety Code (NESC®) 234(e)1, 351(c)1, 351(c)2, Table 234-3, Figure 234-3, and Public Service Commission of Wisconsin (PSCW) Wisconsin State Electrical Code, § PSC 114.234(8), Wis. Adm. Code. These codes will be strictly enforced to ensure the safety of the general public. The proposed location of a swimming pool on a lot must be approved by the city's electric department prior to obtaining a permit to installing or placing the swimming pool on the property.
- (4) *Protection.*
 - (a) Swimming pools shall be protected so as to prevent unauthorized access by means of a fence, wall or other permanent barrier so designed, constructed and maintained as to

completely surround the swimming pool extending to a height of not less than four feet above actual grade. Such barrier shall prevent the passage of an object with a diameter larger than four inches. All gates provided in such barrier shall be equipped with hardware designed to automatically close and latch said gate.

- (b) No fence shall be required for swimming pools which are at least four feet in height above the ground, but all approaches shall require self-closing and latching gates or doors that are capable of being locked. Ladders must contain a mechanism to lock the ladder in an upright position for pools at least four feet in height or must be removed and stored in the principal or an accessory building when the swimming pool is not in use.
- (c) Protection is not required for "kiddie pools." A "kiddie pool" is defined as a portable pool with a maximum surface area of 40 square feet and 24 inches high.

I. *Screening and vision clearance.*

- (1) *Statement of purpose.* This subsection is established to recognize the public and private benefits accrued from functional and aesthetic screening between areas of incompatible land uses, the increasing demand for active and passive recreational areas, the desirability of providing visual screening of certain parking lots, business and manufacturing areas, and the necessity of providing adequate vehicular vision clearance.
- (2) *Off-street parking.* See section 10-1-13.
- (3) *Screening or fencing erected, placed, maintained or grown shall comply with the following provisions:*
 - (a) Screening in front yards shall not exceed a height greater than four feet above the curb level or its equivalent; provided, however, that, within ten feet from any driveway or alley crossing of a street lot line, any screening shall not exceed two feet in height unless it is at least 90 percent open for through vision.
 - (b) On a corner lot, screening in the street side yard may extend from the side street rear corner of the structure perpendicular to a distance four feet from the side street property line and continue along the side street to the rear property line. The height of any screening shall not exceed six feet; provided, however, that within ten feet from any driveway screening it shall not exceed two feet in height unless it is at least 90 percent open for through vision.
 - (c) Unless otherwise provided, a vision-barrier fence that is within four feet of the lot line shall not exceed six feet in height.
 - (d) Snow fences may be used temporarily, but in no case shall snow fences be left standing longer than six months during any calendar year.
 - (e) It shall be unlawful for any person to construct or maintain any barbed wire or razor wire fence, except that any such fence above the height of six feet may be permitted for agricultural, industrial or commercial security reasons, with permission from the zoning administrator.
 - (f) It shall be unlawful for any person to construct or maintain any aboveground electrical fence.
 - (g) Fences constructed in a manner in which a supporting framework or posts can be construed to represent a back side shall be installed so that the front side/good side faces the adjacent or abutting property.
 - (h) Screening or fencing shall be located in a manner that allows the owner to maintain the screening or fencing from his side of the property line.

- (4) *Vision clearance.*
 - (a) On a corner lot in any residence district, no structure, screening, bush, tree branches or embankment shall be erected, placed, maintained or grown between the heights of three feet and ten feet above the curb level or its equivalent within the triangular space formed by two intersecting street right-of-way lines located a minimum of 25 feet from the intersection thereof in order to provide adequate vehicular vision clearance; provided, however, that a fence so designed, constructed and maintained as to be least 90 percent open for through vision may be constructed in such vision clearance area.
 - (b) On a corner lot in any business or industrial district, no structure, screening, bush, tree branches or embankment of any kind shall be erected, placed, maintained or grown between the heights of three feet and ten feet above the curb level or its equivalent within the triangular space formed by two intersecting street right-of-way lines or their projections and a line joining points on such street right-of-way lines located a minimum of ten feet from the intersection thereof in order to provide adequate vehicular vision clearance; provided, however, that a fence so designed, constructed and maintained as to be 90 percent open for through vision may be constructed in such vision clearance area.
- (5) *Exemptions.* The zoning administrator may modify the provisions for the requirement of screening when suitable screening exists on abutting property, or when he/she determines that such modifications for screening shall be in harmony with the general purpose and intent of this subsection. The zoning administrator may also modify the provisions for the requirement of vision clearance when he determines that such modifications shall be consistent with traffic safety and shall be in harmony with the general purpose and intent of this subsection.
- (6) *Existing screening fencing.* Any screening of fencing which exists at the time of the passage of this chapter (October 5, 2009), but does not conform with the provisions thereof, shall not be altered or enlarged without making the entire unit conform with the provisions of this subsection.

J. *Shipping containers and similar conveyances used for storage only in certain zoning districts.*

- (1) *Purpose.* This subsection regulates the use of shipping containers and similar conveyances which may be permanently placed outdoors and used for storage purposes only in certain zoning districts in accord with the provisions described herein which are intended to protect the aesthetic qualities of the city.
- (2) *Definitions.* As used in this section, the following terms shall have the meanings indicated:
 - Shipping container.* A steel box used for intermodal shipping of products and materials between locations. Such containers are designed and constructed to standards established by the International Organization for Standards (ISO) and are typically 10 feet, 20 feet, 30 feet or 40 feet long.
- (3) *Containers prohibited with exceptions.* Except as described herein, the following shall not be placed for storage or residential use in any zoning district in the city: shipping containers, semitrailers, truck bodies, mobile offices, storage containers or other similar conveyances either with or without wheels.
- (4) *Exception for contractors' use.* In any zoning district, contractors may temporarily use the above-listed conveyances in conjunction with construction activities duly authorized by a permit issued by the city for a construction project, alteration project or demolition project.
- (5) *Exception or household or commercial moving purposes.* In any zoning district, contractors may temporarily use the above-listed conveyances in conjunction with construction activities duly authorized by a permit issued by the city for a construction project, alteration project or demolition project.

- (6) *Exception for the i-1, i-2 and i-3 industrial districts.* Shipping containers or similar conveyances may be permanently placed outdoors and used for storage in the districts noted above in accord with the following requirements:
 - (a) The use of this container, including its contents, shall be accessory to the principal building or use of the premises.
 - (b) A container shall not be permitted on vacant lots.
 - (c) A container shall be located in the rear yard only and shall be placed on a pad consisting of stone or gravel or concrete or asphalt or a combination of those materials.
 - (d) The container location shall comply with setback requirements as if it were an accessory building. Where a residential use is immediately adjacent to the proposed location of a container, the minimum setback may be increased in combination with required screening or fencing as determined by the zoning administrator.
 - (e) Additional requirements that may be determined by the zoning administrator include painting to match the color of the principal building, fencing, landscaping, lighting, architectural modifications, maintenance standards and site improvements to manage stormwater drainage.
 - (f) The removal of a shipping container or similar conveyance may be ordered by the city due to lack of maintenance or if it becomes a public nuisance. The cost for such removal shall be paid by the property owner. If the property owner is negligent in paying for its removal, the city may charge the removal against the property.
 - (g) Prior to replacement of any shipping container or similar conveyance, the zoning administrator shall issue a permit in accord with these requirements including the payment of the applicable permit fee.

(Amended 6-7-2021; Ord. No. 2023-043, § 1, 3-20-2023; Ord. No. 2023-207, § 1, 12-18-2023; Ord. No. 2024-077, § 1, 4-22-2024)

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

MEMORANDUM

To: City Council

From: Gregory E. Buckley
City Manager

Date: September 12, 2024

Subject: Plan Commission Recommendation on Application to Re-Zone Property at 1509 19th Street from B-1 Business to R-3 One and Two Family Residential

The Plan Commission at its September 9 meeting considered the above application, which was tabled from the August meeting.

The property in question was formerly the location of a dental office, on the south side of 19th Street. It is located just west of the former Evans Department Store property. The former Evans property and this parcel are zoned B-1, as are all properties in this block on the opposite side of the street. All properties west of the subject parcel on the south side of the street, to Adams Street, are zoned R-3 Residential.

The owner is seeking the zoning change to make use of the existing building as a two-unit residence. First floor residential uses are not allowed in the current B-1 zoning district.

The Plan Commission struggled with this decision, as there are plausible arguments for either maintaining the current business zoning or re-zoning to residential. The property is shown on the Future Land Use map in the Comprehensive Plan as “Governmental/Institutional/Utilities,” along with the abutting U.S. Post Office property, through the block to the south.

After extensive discussion of this request, the Plan Commission voted to recommend approval of the request by the City Council, with the condition that the property owner replace the concrete-paved front yard and adjacent concrete-paved terrace with turfgrass. The rationale for that proposed condition was to make the property more residential in appearance, and thus more compatible with the neighboring residential uses to the west.

While the Plan Commission’s proposed condition for the re-zoning may have merit, a subsequent discussion with the City Attorney identified a potential concern that this would be

considered "contract zoning." That is, the zoning decision would be conditioned upon the property owner doing certain things with the property that are not otherwise required by the Zoning Code. This could create problems in trying to enforce that condition in the future.

Based on this concern, I believe it would be appropriate for the Council to refer this matter back to the Plan Commission, for further consideration. Other alternatives available to the Council would be to schedule this matter for public hearing and then decide to either:

- Approve the rezoning with the condition recommended by the Plan Commission;
- Approve the rezoning without condition; or
- Deny the rezoning

If the matter is returned to the Plan Commission, there are other alternatives that might be pursued to address a residential use of the subject property, including:

- An ordinance amendment to allow some residential conversions of the first floors of B-1 zoned properties as a conditional use, provided certain requirements are met
- Consideration of a rezoning of the property with self-imposed conditions offered by owner, in the form of a covenant running with the land
- Re-zoning the property as Planned Unit Development, and considering redevelopment as a residential use under that section of the ordinance

I recommend that this matter be referred back to the Plan Commission for further consideration, for the reasons cited in this memo.