

CHAPTER 1

GENERAL PROVISIONS

Part 1: Introduction

Sec. 13-1-1 Legislative Authority.

This Code is adopted under the authority granted by Sec. 62.23(7), 236 and 87.30 of the Wis. Stats. and amendments thereto.

State Law Reference: Sec. 61.35 and 62.23(7), Wis. Stats.

Sec. 13-1-2 Title.

This Chapter shall be known as, referred to and cited as the "Unified Development Code, City of Onalaska, Wisconsin" and is hereinafter referred to as the "Code" or "Chapter."

Sec. 13-1-3 General Purpose.

The purpose of this Chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics and general welfare of the people of the City of Onalaska, Wisconsin.

Sec 13-1-4 Relationship to the Comprehensive Plan.

The regulations established herein are derived from and established in accordance with the City of Onalaska Comprehensive Plan. This Unified Development Code provides regulations to implement the goals, objectives, policies and recommendations of the City of Onalaska Comprehensive Plan. References to the contents of the City of Onalaska Comprehensive Plan are contained herein.

Sec. 13-1-5 Jurisdiction and General Provisions.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the City of Onalaska.
- (b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a proper zoning and full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.
- (c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.

Sec. 13-1-6 Legislative Purpose and Intent.

The general intent and purposes in view of this Chapter are to provide the minimum regulations and restrictions for the use of all structures, lands and waters in the City of Onalaska and to:

- (a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people;
- (b) Divide the City into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration, appearance, form and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- (c) Protect the character and the stability of the residential, business, manufacturing and other districts within the City and to promote the orderly and beneficial development thereof;
- (d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
- (e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
- (f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;
- (h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the City;
- (i) Preserve and protect the beauty of the City of Onalaska through careful siting of structures in bluff areas in accordance with the Comprehensive Plan, preservation of unique landscapes and the encouragement of good design and architecture;
- (j) To prohibit uses, buildings or structures incompatible with the appearance and character of development or intended uses within specified zoning districts;
- (k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- (l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
- (m) Further the maintenance of safe and healthful water conditions;
- (n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (o) Provide for and protect a variety of suitable commercial and industrial sites;
- (p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the City of Onalaska;
- (r) Provide for the administration and enforcement of this Chapter; and,
- (s) To provide penalties for the violation of this Chapter.

Sec. 13-1-7 Abrogation and Greater Restrictions.

It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

Sec. 13-1-8 Interpretation.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of Onalaska.

Sec. 13-1-9 Severability and Non-Liability.

- (a) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- (c) The City does not guarantee, warrant or represent that only those areas designated as flood lands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the City of Onalaska, its agencies or employees for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

Sec. 13-1-10 Repeal, Effective Date and Transition Standards.

All other Ordinances or parts of Ordinances of the City inconsistent or conflicting with this Chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

- (a) **Development Plans.** The provisions of this Unified Development Code shall apply to all Development Plans (general, revised or final) filed on or after September 1, 2007. Plans on file before September 1, 2007 shall be reviewed for compliance with the Zoning and Subdivision Ordinance effective at the time of filing.
- (b) **Permits.** The provisions of this Unified Development Code shall apply to all permits filed on or after September 1, 2007. Permit applications on file before September 1, 2007 shall be reviewed for compliance with the Zoning and Subdivision Ordinance effective at the time of filing.

Sec. 13-1-11 Payment of Taxes and Fees Prior to Application for Rezoning and/or Conditional Use Permit.

Rezoning, conditional uses and permits under this Chapter shall not be granted by the City until the Financial Services Director/Treasurer certifies that all real estate taxes, personal property taxes, special assessments and other fees or charges then due and owing to the City of Onalaska by the applicant or which relate to the property for which a Rezoning or a Conditional Use Permit is requested, have been paid in full.

Sec. 13-1-12 Jurisdiction and General Provisions.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the City of Onalaska.
- (b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a Zoning Permit and without full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.
- (c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.
- (d) **One Main Building Per Lot.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one (1) main building on one (1) lot, unless permitted by a Conditional Use Permit or Special Zoning Districts.
- (e) **Lots Abutting More Restrictive District.** 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 (2) districts which abut the district boundary line.

Sec. 13-1-13 Use Regulations.

Only the following uses and their essential services may be allowed in any district:

- (a) **Permitted Uses.** Permitted uses, being the principal uses, specified for a district.
- (b) **Accessory Uses.** Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.
- (c) **Conditional Uses.** The following provisions shall be applicable to conditional uses generally:

- (1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Plan Commission in accordance with this Chapter excepting those existent at time of adoption of the Zoning Code.
 - (2) Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of adoption of this Code require no action by the Plan Commission for them to continue as valid conditional uses.
 - (3) Proposed change from permitted use in a district to a conditional use shall require review, public hearing and approval by the Plan Commission in accordance with this Chapter.
 - (4) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Plan Commission in accordance with this Chapter.
 - (5) Conditional uses authorized by Plan Commission action shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
 - (6) Conditional uses authorized by the Plan Commission shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Plan Commission approval and the procedures required in Part 4 of Chapter 8 of this Code.
- (d) **Uses Not Specified in Code.**
- (1) Uses not specified in this Chapter which are found by the Plan Commission to be sufficiently similar to specified permitted uses for a district shall be allowed by the Land Use and Development Director.
 - (2) Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Plan Commission after public hearing and approval in accordance with Part 4 Chapter 8 of this Code.

Sec. 13-1-14 Site Regulations.

- (a) **Street Frontage.** To be buildable, a lot shall comply with the frontage requirements of the zoning district in which it is located, but shall, in any case, have a minimum frontage as required for the applicable zoning district or forty-five (45) feet for a cul-de-sac.
- (b) **Principal Structures.** All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot. The Plan Commission may permit as a conditional use more than one (1) principal structure per lot for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
- (c) **Dedicated Street.** Site Plan Permit(s) shall only be issued for a lot, which abuts a public street dedicated to its proposed width.

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- (d) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Common Council, upon the

recommendation of the Plan Commission, by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Plan Commission, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability when making its recommendation to the Common Council.

- (e) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- (f) **Decks.** For purposes of this Chapter, roofed or enclosed decks and porches shall be considered a part of a building or structure. Unenclosed decks shall have the same setbacks as applicable for accessory buildings.

Sec. 13-1-15 Height and Area Exceptions.

- (a) **Height.** The district height limitations stipulated elsewhere in this Chapter may be exceeded, but such modification shall be in accord with the following:
 - (1) **Architectural Projections,** such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys are exempt from the height limitations of this Chapter.
 - (2) **Special Structures,** such as elevator penthouses, gas tanks, grain elevators, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, smoke stacks and flag poles are exempt from the height limitations of this Chapter.
 - (3) **Essential Services,** utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Chapter.
 - (4) **Communication Structures,** such as radio and television transmission and relay towers, aerials and observation towers, and telecommunication structures and towers shall not exceed in height three (3) times their distance from the nearest lot line.

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- (5) **Agricultural Structures,** such as barns, silos and windmills, shall not exceed in height twice their distance from the nearest lot line.

- (6) **Public or Semi-Public Facilities**, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.
- (b) **Yards.** The yard requirements stipulated elsewhere in this Chapter may be modified as follows:
 - (1) **Uncovered Stairs, Landings and Fire Escapes** may project into any yard but not to exceed six (6) feet and not closer than three (3) feet to any lot line.
 - (2) **Architectural Projections**, such as chimneys, flues, sills, eaves, belt courses and ornaments, may project into any required yard; but such projection shall not exceed two (2) feet.
 - (3) **Essential Services**, utility electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.
 - (4) **Landscaping and Vegetation** are exempt from the yard requirements of this Chapter, with the exception that any landscaping or vegetation shall be subject to the restrictions in Section 13-7-14.
 - (5) **Yards.** The Plan Commission may approve increased or decreased front yard setbacks in any residential district as part of a subdivision request for the purpose of orderly development of the parcel or parcels. The following criteria shall be used by the Plan Commission in qualifying setback flexibility requests:
 - a. The proposed setback increase or decrease is based either on the physical constraints of the site including steep slopes, potential driveway grades, preservation of mature vegetation and the preservation of ridgelines or orderly development of a parcel or parcels included in a master plan.
 - b. The proposed setback increase or decrease will not be in conflict with the City of Onalaska Comprehensive Plan or detrimental to public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - c. The proposed setback increase or decrease will not be detrimental to the utility needs of the neighborhood including but not limited to sanitary sewer, water or storm water drainage.
 - d. The proposed setback increase or decrease is not based exclusively on the desire to increase the value or income potential of the property.
 - e. The proposed setback increase or decrease will not result in access constraints to proposed structures including steep or excessively long driveway grades.
 - f. The subdivider shall be required to submit a master layout plan at the time of the subdivision application noting front yard setbacks for all parcels included in this request along with a plan for sanitary sewer for each dwelling.
 - (6) **Lots** in the residential district may be reduced in width to the average width of abutting lots on each side, but in no case less than fifty (50) feet.

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Sec. 13-1-16 Reduction or Joint Use.

No lot, yard, parking area, building area or other space shall be reduced in area or dimensions so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.

Sec. 13-1-17 Screens and Buffers.

- (a) **Required Screens and Buffers.** Where screens or buffers are required by this Chapter or the Plan Commission to reduce the impact of proposed uses on adjacent properties, the following standards shall be followed. Buffer yards and screens may be required jointly or separately.
- (b) **Buffer Yards.** Buffer yards are horizontal separations along lot lines that are intended to increase the physical separation between incompatible uses. The width of the required buffer yard shall be determined by the Plan Commission or Land Use and Development Director. The minimum width shall be ten (10) feet.
- (c) **Screens.** Screens are barriers located in a limited space [ten (10) feet or less] intended to perform a buffering effect, particularly for noise reduction or visual screening. Screens may consist of existing or planted vegetation, fences, walls, earth berms or similar techniques. Plant screens shall be sufficient to provide a year-round screen within three (3) years of installation. Walls or earth berms shall be required where noise reduction is necessary. Screen plantings shall be permanently maintained by the owner of the property, and any plant materials which do not live shall be replaced within six (6) months.
- (d) **Screens and Buffers.** Land uses for screening: Some land uses must be visually screened from adjacent property and roadways. These include: off-street parking adjacent to residential areas, loading areas, outdoor storage areas, trash and recycling dumpsters [trash and dumpsters must meet the requirements of Section 8-3-6(i)]. All other uses must have screens consisting of walls, fences, earth berms, plant materials, or any combination of these. The screen must be a minimum of eighty percent (80%) opaque.

Sec. 13-1-18 Payment of Taxes and Fees Prior to Application for Rezoning and/or Conditional Use Permit.

No rezoning of lands or no Conditional Use Permit under this Chapter shall be granted by the City until the Financial Services Director/Treasurer certifies that all real estate taxes, personal property taxes, special assessments and other fees or charges then due and owing to the City of Onalaska by the applicant or which relate to the property for which a Rezoning or a Conditional Use Permit is requested, have been paid in full.

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Sec. 13-1-19 Purpose of the Official City Map; Authority.

- (a) **Purpose.** The Official City Map is created for the purpose of serving and promoting the public health, safety, convenience, economy, orderliness and general welfare of the community; to further the orderly development and use of the land; stabilize the location of real property boundary lines; to facilitate adequate provisions for public transportation, parks, playgrounds and storm water drainage and to facilitate orderly subdivision of larger parcels of land.
- (b) **Authority.** This Chapter is adopted under the authority granted by Sec. 62.23(6), Wis. Stats.
- (c) **Official Map.** The Official Map of the City of Onalaska shall show the location and extent of all platted streets, highways, railroad right of ways, public transit facilities, waterways, parks, playgrounds and parkway corridors within the City of Onalaska and within one and one-half (1-1/2) miles or less of the City of Onalaska corporate boundary as herein laid out, adopted and established by Ordinance. An official map bearing the date of March 10, 1998 which accompanies this Chapter is hereby designated as the Official Map of the City of Onalaska and all notations, references and other information shown thereon shall be part of this Chapter.

Sec. 13-1-20 Review, Approval and Amendment Procedures.

- (a) **Amendments.** The Common Council may change or add to the Official Map so as to establish the exterior lines of planned streets, highways, railroad right-of-ways and parkway corridors. The Common Council shall refer any change or addition to the Official Map to the City Plan Commission for review and recommendation. The Plan Commission shall respond within sixty (60) days with a recommendation on the request.
- (b) **Review and Approval.** Adoption of and amendments to the Official Map will be subject to a public hearing as required by State Statutes.

Sec. 13-1-21 Requirements.

- (a) **Building and Site Plan Permits.** No permit shall hereafter be issued for any proposed development or building proposed in conflict with an existing or proposed street, highway, railroad right-of-way, waterway, park or parkway corridor shown on the Official Map.
- (b) **Municipal Improvements.** No public sewer or other municipal street utility shall be constructed in any street, highway or parkway within the corporate limits of the City of Onalaska until such street, highway or parkway is duly placed on the Official Map.
- (c) **Certification.** There shall be a certified copy of the Official Map kept in the office of the City Clerk and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear certification that it is a true copy of the Official Map and show the date of adoption and shall be signed by the Mayor and counter signed by the City Clerk. Thereafter, no change or addition to the map shall become effective

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until it is amended in accordance with this Chapter, Wis. State Stats. requirements and a certification placed on the amended copy bearing the certification listed in this Section.

- (d) **Recording.** The City Clerk shall be responsible immediately upon adoption of the Official Map or any amendments thereto for recording a true copy of the amended Official Map with the Register of Deeds.

Sec. 13-1-22 Interpretation; Appeals.

- (a) **Interpretation of the Map.** Street, highway, railroad right-of-ways and parkway locations are approximate. Boundary lines indicated as approximately following municipal boundaries, parcel or lot lines, congressional township section lines or fractional parts thereof, shall be construed to follow such lines. Boundary lines indicated as parallel to or extensions of street, highway, railroad right-of-way or parkways, municipal boundaries, parcel or lot lines or congressional township lines or fractional parts of congressional township lines shall be so construed to be parallel to or extensions of said boundary lines.
- (b) **Appeals.** The Board of Zoning Appeals shall have the authority to review any administrative decision by City staff to deny a permit for a development or building and to grant relief from the requirements of this Article under the provisions of Sec. 62.23(6)(d), (f) and (g), Wis. Stats.

Sec. 13-1-23 Violations.

- (a) **Enforcement.** It shall be the duty of the City Building Inspector and Land Use and Development Director to enforce the provisions of this Chapter.
- (b) **Compensation.** No compensation shall be allowed for any building or development erected in violation of this Chapter, that is razed by any government agency, for street, highway, railroad right-of-way or parkway purposes.
- (c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, be subject to the forfeiture and such additional penalties as provided for in Section 1-1-7 of the City of Onalaska Code of Ordinances.

Sec. 13-1-24 through Sec. 13-1-30

Reserved for Future Use.