

CHAPTER 252
GENERAL REQUIREMENTS

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252-1. Population Placards for Certain Class "B" Licensed Establishments. 1. REQUIRED. It shall be the duty of a holder of the certificate of occupancy or license, if any, of any building or structure or part thereof now used or hereafter to be used in conjunction with a Class "B" tavern or Class "B" fermented malt beverage license to securely post and maintain in a conspicuous place near the main exit or exit access doorway from the room or space, placards indicating the approved maximum number of persons permitted in such occupancies as regulated in this code. All placards posted under this subsection shall be issued by the department of neighborhood services.

2. BASIS FOR ESTABLISHING POPULATION. a. The allowable maximum of persons on any floor or part thereof of any building or structure regulated under this section shall be based on the building code requirements in effect at the time the establishment first occupied the building or alterations last occurred in the establishment that included the reconfiguration of space and addition or elimination of any door or window. In the event the establishment first occupied the building prior to July 1, 2002, or alterations that included the reconfiguration of space and addition or elimination of any door or window last occurred in the establishment prior to

July 1, 2002, the restroom fixture count shall comply with the following minimum requirements: one water closet per each 40 males or fraction thereof, one water closet for each 40 females or fraction thereof, and one lavatory for every 75 persons or fraction thereof with a minimum of one lavatory in each restroom. Where more than one water closet is required for males, urinals may be substituted for up to 50 percent of the required water closets.

b. The capacity of any building or structure under this section that provides a sidewalk area dining facility as defined under s. 115-32.6-2 shall not include the number of persons occupying the sidewalk area dining facility as part of the total capacity.

3. UNLAWFUL TO OVERPOPULATE BUILDINGS. It shall be unlawful to permit in any building or structure or part thereof, regulated in sub. 1, a greater number of persons than that indicated on placards as posted pursuant to this section and established by the commissioner, and it shall further be unlawful to alter, deface, obstruct from view or remove any such placards.

252-51. Recycling Space in New, Enlarged or Remodeled Public Buildings. 1. DEFINITIONS.

In this section:

a. "Enlarge" means to increase the gross floor area of a building by not less than 50%.

b. "Public building" means a building that is used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy or use by the public or by 5 or more tenants.

c. "Remodel" means to renovate not less than 50% of the square footage of a building whose existing gross floor area is not less than 10,000 square feet. The term does not include reroofing, alterations to an electrical or mechanical system or cosmetic redecorating such as painting or the installation of wall covering, floor covering or suspended ceilings.

2. RECYCLING SPACE REQUIRED. A person who enlarges, remodels or constructs a public building shall provide a designated area for the separation, temporary storage and collection of solid waste and recyclables either within or adjacent to the public building. In enlarged or remodeled public buildings, this requirement applies only to the enlarged or remodeled portion of the public building.

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252-70. Basements. 1. GENERAL REQUIREMENT. Any building or structure or part thereof hereafter erected, or any existing building or structure or part thereof shall have underneath such floors either a basement or open space for the entire area of the building or structure, or in lieu thereof, a floor of damp-proof construction.

2. HEIGHT OF BASEMENT. Basement ceiling heights, measured from the top of the basement floor to the bottom of the floor joists, shall be not less than 7 feet; except that for buildings regulated in ch. 257, such height shall be 6 feet 10 inches.

3. OPEN SPACES. All buildings or structures hereafter erected without a basement, or not provided with a damp-proof floor, shall be provided with a ventilated open space conforming to the following:

a. The ground level shall be at least 2 feet below any part of the wood or metal floor construction.

b. In such space all debris, sod, tree stumps and other inorganic material shall be removed and a smooth surface free of pockets shall be provided.

c. Where the ground level in such space is below the outside established grade, approved means to assure drainage at all times shall be provided.

d. When one side of such space, exclusive of structural supports, is open to a ventilated basement, foundation wall vents shall not be required, provided the total area of ventilating openings in the exterior walls of the basement is at least 2% of the combined area of the basement and open space.

e. Where such space is not open to ventilated basement, as regulated in par. d, either:

e-1. At least 4 foundation wall vents shall be provided and located near the corners of such space, having an aggregate free ventilating area equal to 2 square feet per 100 lineal feet of wall enclosing such space plus 1/300 of the ground area of such space; or

e-2. Ground surface treatment in the form of a layer of a minimum of 5 mil.

polyurethane or equivalent lapped a minimum of one foot and covered with at least 2 inches of stone plus at least 2 foundation wall vents located for effective cross-ventilation.

f. In each vent opening regulated in par. e, corrosion-resistant screening having a mesh of not less than 8 per inch shall be installed.

4. DAMP-PROOF FLOORS. In all buildings and structures hereafter erected where the lowest or first floor rests directly on the ground, a damp-proof floor shall be provided. In this subsection "damp-proof floor" means a floor construction so erected with a vapor barrier of at least 5 mil. polyurethane or equivalent and lapped at least one foot over which a minimum thickness of 3 inches of concrete shall be spread. Care shall be taken that the vapor barrier used is not pierced during concrete pouring.

5. BASEMENT WALLS. Masonry foundation walls of basements shall be made waterproof by application of a continuous coat of cement mortar at least 1/2 inch in thickness, from the footings to the adjoining finished established grade or lot grade. A heavy coat of undiluted hot tar, hot asphalt or other approved waterproof material shall be applied to foundation walls. Any other method of waterproofing which will assure a damp-proof basement will be accepted if approved by the commissioner.

6. DRAIN TILE. All foundation walls of basements of structures regulated in chs. 240 and 257 shall have drain tiles on each side of such walls. Bleeder tiles shall be placed in foundation footings spaced no farther than 8 feet on center. Drain tile will not be required if engineering data is supplied showing that drain tile is not required. Drain tile placed under the basement floors and around the exterior foundation wall and footings of a building or structure shall be of the approved type, not less than 3 inches in diameter, and shall be covered with crushed rock or washed stone.

7. BASEMENT FLOORS. Basement floors shall be constructed of concrete and shall be designed to withstand the anticipated live load; however, in no case shall the floor be less than 3 inches in depth. The floor shall be pitched to provide positive drainage to the floor drain.

8. FOUNDATION REPAIRS AND DAMP-PROOFING. All foundation repairs and damp-proofing shall be done as provided in s.240-23.

252-71. Drainage. 1. ROOF GUTTERS AND CONDUCTORS. Except for private detached accessory buildings not more than 1,000 square feet in area, all roofs of buildings and structures shall be provided with approved watertight gutters and conductors for conducting water from roofs as regulated in ch. SPS 382, Wis. Adm. Code. Such gutters and conductors shall be fastened in place in an approved manner and maintained in good repair at all times, and all conductors shall be provided with approved screens. The cross-section of all conductors shall be as regulated in ch. SPS 382, Wis. Adm. Code.

2. DRAINAGE OF PAVED AREAS.

a. Newly Paved or Repaved Areas Where Storm Sewers Are Available. All storm water which is generated from a newly paved or repaved area of more than 1,000 square feet, such as a parking lot, terrace or patio area, loading areas or other hard surface, shall be disposed of within the lot lines through a sewer, permeable paving, natural absorption or combination thereof without discharging to adjacent private or public property not specifically designed for this purpose. No such paved or hard surface shall be paved and contoured in such a way as to interrupt a natural drainage system serving adjacent properties. No such paved area shall be paved or contoured in such a way as to impose a greater drainage burden on adjacent property.

b. Newly Paved or Repaved Areas Where Storm Sewers Are Not Available. Where no public storm sewer is available or where the commissioner determines that natural absorption, permeable paving, or combination thereof may accommodate all on-site water within the property, the commissioner may allow a drainage system which is not connected to a storm sewer. The commissioner may request soil borings, absorption tests, engineering calculations prepared and sealed by a registered civil engineer or other information to verify that the water can be disposed of within the property. No water shall be drained across or onto a public street or private property under different ownership than the property generating or containing the surface water.

c. Permeable Paving. The commissioner may allow the use of permeable paving as regulated in s. 252-74. For newly paved areas or parking lots, the storm sewer requirement under s. 225-4 may be waived by the commissioner if adequate drainage is provided.

d. Alley and Street Drainage. Driveway aprons between the public sidewalk and the public street or between the parking area and the public alley shall be allowed to drain to the public street or the public alley where conditions would cause an unnecessary hardship to the property owner as determined by the commissioner. The maximum area which may be drained to the alley shall not exceed a total area of 10 feet times the length of the property along the public alley.

e. Existing Parking Lots. In the following cases, par. a shall apply:

e-1. When an existing parking lot or area which does not have an asphalt or concrete pavement is paved.

e-2. When an existing parking lot or area is enlarged, the portion to be enlarged shall comply.

e-3. When an existing parking lot or area is graded or drained in a manner which will damage or create a nuisance onto adjoining premises or street walk.

f. Natural Drainage. Natural or constructed drainage swales and ditches which serve adjacent properties shall be maintained by each property owner through which the natural drainage accrues. Existing natural drainage shall be maintained by ditches, swales, culverts or a catch basin and storm sewer system designed to meet the existing water conditions. Where existing ponding or marsh areas accrue on a continuing seasonal basis, a property owner shall not fill the property in such a manner that the pond or marsh area is shifted off the property onto an adjacent property not under the same ownership. Where it is necessary to fill or grade a property such that a pond or marsh area will be filled, a storm sewer shall be provided to eliminate the water which would be imposed on the adjacent properties.

g. Areas of 1,000 Square Feet Or Less. All paved areas of 1,000 square feet or less may discharge to an alley or street with proper drainage.

h. Washing of Motor Vehicles. All premises, now or hereafter used for the washing of motor vehicles, where because of such use water drains over a street walk or onto an adjoining premises, approved drains

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connected to a city sewer shall be provided and constructed as regulated in s. SPS 382.34, Wis. Adm. Code.

252-72. Parking Lots. 1. DEFINITION. In this section "motor vehicle parking lot" means any lot, plot of land or premises upon which motor vehicles are parked, but excluding accessory parking of not more than 4 motor vehicles as regulated in ch. 295.

2. COMPLIANCE. All licensed motor vehicle parking lots shall comply with the regulations of s. 84-20 relating to licensing, maintenance and operation of parking places in addition to the regulations of this section.

3. INGRESS AND EGRESS. There shall be provided to all motor vehicle parking lots a means of ingress and egress at street walk or public thoroughfare level as determined by the commissioner of public works. Such ingress and egress and adjoining public thoroughfare shall remain unobstructed at all times. For the cutting of street curbs to provide ingress and egress to all parking lots, and for the construction or reconstruction of driveways in connection therewith, permits shall be obtained as regulated in s. 245-4-24.

252-72.5. Parking Garage Ingress and Egress.

1. Motor vehicle ingress and egress to any building and structure occupied as a storage garage or open parking structure for the parking of more than 50 motor vehicles shall be as far as practicable from street intersections but not less than 75 feet in any case.

2. In all structures or buildings, when parking or storing is done by attendants or employees, an approved waiting space shall be provided within the building at the ingress thereto.

252-73. Wheel Guards and Barriers. 1. SCOPE AND PURPOSE. At all new and existing motor vehicle service lots (filling stations; private, public or customer parking lots; drive-ins; and motor vehicle sales lots) there shall be provided wheel guards or barriers for the purpose of preventing removal of motor vehicles from such places except at the established exits and entrances, and to prevent any portion of a motor vehicle from encroaching onto adjoining premises or over established street or alley lot lines.

2. SIZE AND CONSTRUCTION.

a. Wheel guards shall be at least 6 inches high and barriers shall be at least 2 feet high.

b. Wheel guards and barriers shall be of such construction, design and weight so as to accomplish the purpose for which they are intended.

c. Wheel guards shall be secured in a manner to prevent them from being displaced.

3. LOCATION. **a.** Wheel guards shall be so located as to prevent any part of a vehicle from projecting beyond a lot line, but in no case less than 2 feet from any lot line.

b. Barriers may be located along any lot line unless otherwise regulated by the code.

c. Unless otherwise regulated by this code, wheel guards or barriers may be omitted along the edges of driveways and access lanes that are adjacent to lot lines, and where the parking areas are clearly marked on the pavement and the drives and access lanes are not normally used for parking of vehicles.

252-74. Paving of Parking Lots, Areas and Spaces.

All new and existing public or private parking lots, spaces or areas, or off-street loading and unloading berths and all access roads, drives or lanes leading from the street or alley lot line to these lots, berths, spaces or areas, whether it be the principal use or accessory to a principal use, shall conform to the regulations in this section.

1. PAVEMENT. **a.** All parking lots, parking spaces, parking areas, off-street loading or unloading berths or areas, and all access roads, drives or lanes leading thereto shall have a surface of concrete, asphalt or permeable pavement. Crushed stone, sand, gravel, cinders or other materials except as listed in par. b, shall not be used for the surfacing materials.

a-1. Prohibited Uses. Permeable paving shall not be used for paved surfaces at filling stations, service stations, where motor vehicles are regularly serviced or other locations where hazardous liquids could be absorbed into the soil through the permeable pavement.

b. Permeable paving or paving blocks may be used for single family and 2-family parking areas. Paving blocks shall be a minimum of 3 inches thick and installed on a minimum of 4 inches of properly compacted

sand or crushed stone. The parking areas shall conform to the standards of s. 295-403-3. The finished parking area shall be constructed to be of a proper grade and pitch to allow for drainage to the alley or street, to prevent water from pooling on or around the parking surface and to prevent runoff from flowing onto adjacent properties.

2. COMPLIANCE. a. Except for one and 2-family dwellings, all new parking lots, parking spaces, parking areas, off-street loading and unloading berths and areas, and all access roads, drives or lanes shall comply with this section within 6 months after partial or complete occupancy of the premises.

b. All one and 2-family dwellings constructed after July 17, 1973, shall have driveways and parking spaces paved with concrete, asphalt, permeable paving or paving blocks within one year of occupancy.

c. In the case of one and 2-family dwellings constructed prior to July 17, 1973, parking spaces constructed prior to July 17, 1973, may be covered with the following paving material notwithstanding any other provision of this code: concrete, asphalt macadam, crushed stone, paving blocks, traffic bond, or other paving material approved by the commissioner. Areas on properties constructed prior to July 17, 1973, that are covered with crushed stone, paving blocks less than 3 inches thick, traffic bond, or other paving material not listed in sub. 1, shall not be converted to parking spaces by the installation of drives or lanes to gain access to such areas.

d. All newly created driveways and parking spaces on one and 2-family residential properties are required to have a minimum width of 8 feet. A driveway may be placed directly adjacent to an interior side property line provided all setbacks and parking restrictions are in compliance with ch. 295.

e. For newly created driveways on a one or 2-family residential property, any access drive shall be located on the lot on which the dwelling is located, and shall not be shared with an adjoining lot, except where a shared access drive is permitted under s. 295-505-4-c-4.

3. MAINTENANCE. The surface of all lots, spaces and areas regulated in this section shall be maintained free of holes and ruts, which may accumulate standing water.

Stones or other such paving material shall not be permitted to spread from the premises to any street, alley or sidewalk. All existing graveled parking areas, lanes and drives shall be maintained free of weeds and grass. Should any parking spaces constructed prior to July 17, 1973, pursuant to sub. 2-c, fail to be maintained in a reasonably good state of maintenance and repair, they may then be required to adhere to current concrete, asphalt or permeable paving requirements pursuant to sub.1.

4. EXCEPTIONS. This section does not apply to any premises that fronts on a street or alley, the roadway of which is paved with gravel, crushed stone or cinders.

5. PLANS, PLAN EXAMINATIONS, FEES AND PERMITS. a. Parking Lots for New Buildings and Additions. Plans for a parking lot to be installed in conjunction with new construction, or an addition to an existing building, shall be submitted to the commissioner of neighborhood services for examination simultaneously with the construction plans. The information required on these plans shall be set forth in par. c. No additional building plan or examination permit fee shall be required.

b. Existing Unpaved Parking Lots. Plans for the paving of existing unpaved parking lots shall be submitted to the commissioner of neighborhood services in triplicate, and a plan examination fee as set forth in s. 200-33 shall be paid. The plans shall contain information as outlined in par. c. Upon approval of the plans, the permit fee set forth in s. 200-33 shall be paid and a permit issued. No permit shall be issued for paving before drainage plans are approved.

c. Information Required on Plans. Plans for the paving of a parking lot shall indicate existing and paved areas, distance of paved areas to lot lines, finished grade elevations, swales, buildings, wheel guards and barriers, curbs, curb cuts, location of drains and catch basins, size and arrangement of parking spaces and width of aisles and driveways.

d. Drainage Systems. Plans for a parking lot requiring a drainage system pursuant to s. 252-71 shall be submitted in triplicate to the commissioner of neighborhood services. Upon approval of such plans and payment of the fees set forth in s. 200-33, a plumbing permit shall be issued for the drainage system.

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e. Drains for Parking Lots. Trench drains shall be installed in compliance with ch. 225. Catch basins and storm inlets shall be installed in compliance with s. SPS 382.34, Wis. Adm. Code.

f. Curb Cuts. f-1. Whenever curb cuts are to be installed in conjunction with paving, the plans for said curb cuts shall be submitted to the commissioner of public works and a permit procured pursuant to s. 115-23 prior to the start of construction.

f-2. Curb cuts shall be required prior to the construction of any accessory or principal building or structure requiring ingress from street or lane, or prior to the construction of any driveway requiring access from any street or lane. Said curb cut shall be installed in compliance with s. 115-23 and shall be approved by the commissioner of neighborhood services after a determination that the accessory or principal building or structure or parking area shall not be in violation of ch. 295.

252-75. Planting and Maintenance of Vegetation. 1. **VEGETATION REQUIRED.** In addition to any applicable requirements of ch. 295, within one year of occupancy of any single-, 2- or multi-family dwelling, a land-disturbing addition to such dwelling or an accessory structure related to such dwelling, the premises upon which such dwelling is located shall be covered with seeded or sodded grass, trees, shrubs, gardens or other vegetation. Such vegetation shall not contain Canada thistle, leafy spurge, field bindweed or any other weed which the commissioner of health, his or her designated representative within the health department, or any other city official to whom the commissioner's functions or duties have been delegated pursuant to a memorandum of understanding determines to be noxious. The vegetation shall thereafter be maintained and shall not be replaced with gravel, pavement or any other non-vegetation material. The area upon which vegetation shall be planted and maintained includes any unpaved portion of the public street between the property line and the curb or edge of the street pavement; however, no vegetation other than grass shall be planted and maintained on public street right-of-way unless approved by the commissioner of public works in accordance with ch. 116. The landscaped areas required by this subsection may be used for storm water treatment purposes.

2. **EXCEPTIONS.** The provisions of this section shall neither apply to lands that are used for farming activities nor preclude the installation of a driveway, parking space, sidewalk, swimming pool, patio, deck or other accessory use or structure which is otherwise in conformance with this code, provided that no parking space, swimming pool, deck exceeding one foot in height or other accessory use or structure shall be located in a front yard, as regulated by ss. 295-13 and 295-17. Furthermore, this section shall not preclude installation of non-living landscaping materials, including but not limited to landscaping timbers, wood chips, decorative bark or landscaping stones, provided that such materials are installed and maintained in conjunction with vegetation required under sub. 1.

252-76. Security Barriers in Commercial Districts.

1. **DEFINITIONS.** In this section:

a. "Facade" means any exterior wall that faces a public street or streets.

b. "Security barrier" means any device intended to limit or block access to individual doors or windows on a building facade, or to an entire building facade. This term shall include, but not be limited to, window bars, fixed metal grilles, and side-mounted or overhead-mounted retractable metal security gates or grilles, regardless of whether such devices are solid or semi-transparent. It shall not include strengthened vision glass, non-glass transparent materials, electronic alarms or security cameras.

2. **APPLICABILITY.** This section shall not apply to any security barrier placed on the exterior or interior of the facade of any dwelling unit.

3. **EXTERIOR SECURITY BARRIERS.** No security barrier shall be placed on the exterior of any portion of any facade of any enclosed building located in a residential and office, neighborhood shopping, local business, commercial service, regional shopping or downtown zoning district. Any security barrier in place on the exterior of the facade of an enclosed building in one of the specified zoning districts on July 1, 1998, may remain in place until a new certificate of occupancy is issued for the premises on which the barrier is located.

The security barrier shall be removed within 180 days of the date of issuance of the new certificate of occupancy.

4. INTERIOR SECURITY BARRIERS.

a. Standards. All security barriers placed on the interiors of facades of enclosed buildings located in a residential and office, neighborhood shopping, local business, commercial service, regional shopping or downtown zoning district shall conform with the following standards:

a-1. If the security barrier was manufactured to be retractable, it shall remain retracted for the duration of the building occupant's normal business hours or hours of operation.

a-2. The opacity to light of the security barrier shall not exceed 25% at any time.

a-3. The security barrier and any associated enclosures or casings shall be of a color that matches, or painted to match, the mullion pattern or window or door surrounds.

a-4. The security barrier shall comply with all applicable regulations of the Wisconsin statutes and the Wisconsin administrative code.

b. Business Improvement Districts. Nothing in this subsection shall be interpreted as precluding the board of a business improvement district created by the city from prohibiting non-retractable security barriers on the interiors of facades in the district.

5. BLOCKAGE OF DOORS OR WINDOWS. No person may replace a security barrier with any opaque materials, including but not limited to wood, masonry products and plastic-type materials, that completely and permanently block, fill in or otherwise cover up any door or window opening on any facade of a building located in a residential and office, neighborhood shopping, local business, commercial service, regional shopping or downtown zoning district. This subsection shall not apply to any boarding of structures required by s. 275-32-7 or ordered by the commissioner pursuant to this code.

252-77. Outdoor Play Space for Elementary Schools.

1. DEFINITION. In this section, "elementary school" means a public, parochial or private school which provides an educational program for one or more grades between kindergarten and grade 5, inclusive, and which is commonly known as an elementary school or grade school.

2. REQUIREMENTS. Except when an exemption is requested and approved by the department of neighborhood services under sub. 3, every premises upon which use of the premises

as an elementary school begins on or after the effective date of this ordinance [September 25, 2012] shall comply with all of the following requirements for outdoor play space:

a. There shall be at least 75 square feet of outdoor play space for each child using the space at any given time.

b. The total outdoor play space of the school shall accommodate not less than 1/5 of the number of children enrolled in the school or a minimum of 750 square feet, whichever is greater.

c. The outdoor play space shall be on the premises of the school.

d. An energy-absorbing surface, such as loose sand, pea gravel or pine or bark mulch, in a depth of at least 9 inches, is required under climbing equipment, swings and slides and in a fall zone of 4 feet beyond and whenever play equipment is 4 feet or more in height. Shredded rubber and poured surfacing shall be installed to the manufacturer's specifications based on the height of the equipment.

e. Concrete and asphalt under climbing equipment, swings and slides shall be prohibited.

f. The outdoor play space shall be well-drained and shall be free of hazards such as uncovered wells, cisterns and unused appliances. Structures such as playground equipment, railings, decks and porches accessible to children that have been constructed with CCA-treated lumber shall be sealed with an exterior oil-based sealant or stain. Wood containing creosote, including railroad ties, shall not be accessible to children.

3. EXEMPTION FOR OFF-PREMISE OUTDOOR PLAY SPACE.

a. Exemption Request. If a school has no outdoor play space available on the premises of the school, the school may request an exemption from the requirements of sub. 2. A request for an exemption shall be in writing and accompanied by a plan for outdoor play space which does all of the following:

a-1. Identifies and describes the location to be used, the travel distance from the school to that location and the means of transporting the children to that location.

a-2. Provides for adequate adult supervision of the children. The minimum number of adults supervising children in the outdoor play space shall be one per 30 children or fraction thereof.

a-3. Provides for daily vigorous outdoor exercise for the school's children.

a-4. Describes the arrangements to meet the toileting needs of the children.

a-5. Affirms the school's compliance with the requirements of par. b.

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b. Requirements for Off-Premise Outdoor Play Space. The off-premise outdoor play space shall meet the following requirements:

b-1. The off-premise outdoor play space shall be free of hazards such as bodies of water, railroad tracks, unfenced in-ground swimming pools, heavily wooded areas and adjacent arterial streets, as defined in s. 295-201-637.

b-2. There shall be at least 75 square feet of outdoor play space for each child using the space at a given time.

b-3. No climbing equipment, swing or slide in the play space may have concrete or asphalt under it.

c. Department Review and Approval. A school's plan for use of an off-premise outdoor play space is subject to approval by the department. Within 30 days after receipt of a plan and request for an exemption from the requirements of sub. 2, the department shall either approve the plan and grant the exemption or not approved the plan and deny the request for exemption. The department shall notify the school in writing of its decision and, if it does not grant an exemption, shall state its reasons for not granting the exemption.

d. Plan Changes. If any circumstance described in an approved plan for use of an off-premise outdoor play space changes, or if any condition for plan approval is not met or is no longer met, the department of city development may withdraw its approval of the plan and cancel the exemption. A school with an approved plan shall immediately report to the department any significant change in any circumstance described in the plan.

252-80. Tree Protection in Milwaukee River Greenway Site Plan Review Overlay Zone.

1. PURPOSE AND FINDINGS. The common council finds that the Milwaukee River greenway site plan review overlay zone, as shown on the city zoning map and established by common council file number 081568, supports a fragile riparian ecosystem that is rare in Milwaukee, providing up to 100% urban tree canopy, native floodplain grasses, a rich diversity of flora and fauna, and critical habitat. The purpose of this section is to promote the public health, safety and general welfare by regulating the planting, maintenance, restoration and removal of desirable trees within the Milwaukee River greenway site plan review overlay zone in order to promote the benefits derived therefrom,

including management of storm water runoff, stabilization of shoreline and slopes adjacent to the river, protection of bluffs and floodplains from soil erosion, enhancement of air and water quality, creation and promotion of wildlife habitat, and preservation of aesthetics.

2. DEFINITIONS. In this section:

a. "Commissioner" means the commissioner of public works or the commissioner's designee.

b. "Critical root zone" means the portion of the root system of a tree that is the minimum necessary to maintain the continued health, vitality or stability of the tree, defined by a concentric circle around a tree with a radius that is equal to 1.5 feet for every inch in trunk diameter at breast height.

c. "Damage" means any action that in the sole opinion of the commissioner adversely impacts the health, vitality or stability of trees located within the primary environmental corridor. Damage may include direct injury to a tree, injury to or loss of roots within the critical root zone, changes to existing grade within the critical root zone, soil compaction within the critical root zone, chemical injury, removal of bark, injury to trunk, branch breakage or removal, crown reduction pruning, improper pruning, removal of more than 25% of a tree's live branches, alteration of the natural shape of a tree or any action contrary to generally accepted arboricultural or horticultural practices which cause tree infection, infestation or decay. Damage also includes the indiscriminate cutting of tree branches to stubs, buds or lateral branches that are less than 1/3 the diameter of the stem removed, or removal of more than 25% of the crown wood from a tree.

d. "Diameter at breast height" means the diameter of a tree measure at 4.5 feet above the ground.

e. "Diseased tree" means any tree with one or more significant structural defects or an infection, infestation or decay, or high probability thereof, as determined by a professional forester or professional arborist certified by the International Society of Arboriculture, which makes it subject to a high probability of failure or decline.

f. "Disturb" means any alteration to the branches, trunk or root system of a tree, including excavation within the critical root zone. The term does not include crown cleaning, which is the selective removal of one or more of the following items from a tree: dead, dying or diseased

branches, weak or broken branches and water sprouts. Nor does it include crown raising, which is the selective removal of the lower branches of a tree to provide additional vertical clearance underneath a tree

g. "Primary environmental corridor" means the primary environmental corridor within the Milwaukee River greenway site plan review overlay zone, as mapped by the southeastern Wisconsin regional planning commission.

h. "Removal" means the actual cutting down or removal of a tree, or the effective removal of a tree through damage, abuse, poisoning or other actions resulting in the death of a tree.

i. "Tree" means any self-supporting woody plant, greater than 15 feet in height, together with its root system, having one trunk of at least 6 inches in diameter at breast height or having a multi-stemmed trunk system with a definitely formed crown.

3. APPLICABILITY. The provisions of this section shall be applicable to all property located within the Milwaukee River greenway site plan review overlay zone, as shown on the city zoning map and established by common council file number 081568.

4. PROHIBITED ACTS. a. No person shall remove, damage, break, top, disturb or otherwise destroy any living and structurally sound tree located within the primary environmental corridor except as permitted under par. b or by a tree maintenance and conservation permit issued pursuant to sub. 5.

b. The following may be removed from the primary environmental corridor without a permit:

b-1. Dead or diseased trees, as determined by a professional forester or professional arborist certified by the International Society of Arboriculture.

b-2. Common or European Buckthorn (*Rhamnus catharticus*), Glossy or Smooth Buckthorn (*Rhamnus frangula*) or any species of Honeysuckle (*Lonicera* sp.).

b-3. Trees less than 6 inches in diameter at breast height.

c. To minimize the removal of trees, no pedestrian path shall be constructed within the primary environmental corridor unless the path meets all of the following conditions:

c-1. The pedestrian path does not exceed 6 feet in width.

c-2. The pedestrian path has a permeable surface.

c-3. The pedestrian path is located and constructed to effectively control erosion and to minimize removal and disruption of trees within the primary environmental corridor.

5. TREE MAINTENANCE AND CONSERVATION PERMIT. a. Application. Any person desiring a permit to remove or disturb a tree within the primary environmental corridor shall file with the commissioner an application in writing on a form furnished for this purpose. Every application shall:

a-1. State the name and address of the property owner.

a-2. Describe the location, species and diameter at breast height of each tree proposed to be removed or disturbed.

a-3. Describe any construction plans associated with the requested tree removal.

a-4. If the application proposes removal of a tree in excess of 6 inches in diameter at breast height, describe the proposed replacement tree or trees pursuant to par. c-1.

a-5. If the application involves construction of a pathway, describe the width, length, depth of excavation and surface material of the pathway.

a-6. If the proposed tree removal or disturbance is part of a construction or site development project, include a site plan containing the following additional information:

a-6-a. Primary contact for the project, including name, business affiliation, address, phone, email and fax.

a-6-b. Name of the project, if any.

a-6-c. A plat of survey prepared by a registered land surveyor or engineer showing all proposed improvements or site alterations to a recognized engineer or architect scale.

a-6-d. Date of site plan submittal, along with any and all dates of revision.

a-6-e. Existing and proposed grade for any grade change within the primary environmental corridor.

a-6-f. North arrow.

a-6-g. Location to scale, including critical root zone, of all trees 6 inches or larger in diameter at breast height proposed to be removed or located within the limits of construction in the primary environmental corridor.

a-6-h. Approved tree protection fencing installed at the critical root zone of all trees or groups of trees 6 inches or larger in diameter, not shown to be removed, located within the limits of construction or site disturbance.

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a-6-i. The location of all existing and proposed easements on the site.

a-6-j. Slopes greater than or equal to 12% located within the limits of soil disturbance.

a-6-k. Defined points of temporary and permanent ingress and egress in the primary environmental corridor.

a-6-l. Existing and proposed utilities, including sanitary sewers, storm sewers and water mains and service laterals, underground utility laterals and clean-out and surface valves, electrical and telecommunication cables, and gas mains and service laterals. All locations for the proposed connections to utilities and the proposed elevations of these connections shall be indicated on the site plan.

a-6-m. A scale landscape plan showing the location and quantity of all landscape plantings proposed for the site, including a listing of the proposed species, cultivar and common name, including notation of Wisconsin native species, as well as the size and quantity of the plantings, whether they are balled-and-burlapped or container-grown, and installation notes and details.

a-7. Any other information that may be required by the commissioner.

b. Issuance of Permit. The application for permit shall be examined by the commissioner and, if found to be in conformity with the requirements of this subsection, shall be approved and a permit issued by the commissioner. The commissioner may impose any conditions necessary to ensure the permitted activities are executed professionally, safely and in accordance with the requirements of this section.

c. Requirements. The following requirements shall apply to all permits issued under this subsection:

c-1. Replacement of Trees Removed.

c-1-a. Non-native trees in excess of 6 inches in diameter at breast height which are removed shall be replaced on a diameter-equivalent basis during the designated planting season with Wisconsin-native, nursery-grown trees conforming to American National Standard Institute (ANSI) Z60.1 American Standard for Nursery Stock, as amended.

c-1-b. Native trees in excess of 6 inches in diameter at breast height which are removed shall be replaced on a 2-to-one diameter ratio during the designated planting season with Wisconsin-native,

nursery-grown trees conforming to American National Standard Institute (ANSI) Z60.1 American Standard for Nursery Stock, as amended. For example, 4 native trees measuring 3 inches each in diameter in breast height shall be planted for every native tree removed that is 6 inches in diameter at breast height.

c-1-c. All replacement trees shall be planted within the primary environmental corridor.

c-2. Planting Season. c-2-a. Balled-and-Burlapped Trees. The planting season for balled-and-burlapped trees shall be between October 15 and December 1 and between March 15 and May 15.

c-2-b. Container-Grown Trees. The planting season for container-grown trees shall be between September 1 and December 1 and between March 15 and June 15.

c-3. Plant Installation, Inspection and Warranty. c-3-a. Installation. All trees shall be planted in accordance with accepted horticultural practices and any other specific planting instructions provided by the commissioner.

c-3-b. Inspection. Inspection of work to determine its completion and establish the beginning of the warranty period shall be performed by the commissioner upon request of the property owner submitted to the commissioner at least 10 days prior to the inspection date. After inspection, the commissioner shall notify the property owner of the date of the beginning of the warranty period by issuing a notice of acceptance.

In the event of any deficiencies, the commissioner shall notify the property owner of the requirements for beginning the warranty period.

c-3-c. Warranty Period. All plants shall be guaranteed to be alive and healthy, as determined by the commissioner at the end of the warranty period. The warranty period shall extend for a period of one year from the date of notice of acceptance. During the warranty period, the property owner shall replace any trees that die or, in the opinion of the commissioner, are in an unhealthy condition or have lost their shape due to dead branches, excessive pruning, inadequate, improper maintenance or any other causes. Replacement trees shall be planted immediately, if the time of rejection occurs during the planting season, or during the next planting season, if the time of rejection falls outside the planting season.

c-4. Soil Erosion or Slope Destabilization. No tree removal or disturbance shall be permitted under this section whenever the commissioner determines that the tree removal or disturbance would result in soil erosion or slope destabilization due to soil conditions or the existing degree of slope. In evaluating whether this requirement is satisfied, the commissioner shall consider such factors as existing grade, available soil surveys, maps, representative soil borings or classifications, existing vegetation in the immediate vicinity of the tree or trees proposed for removal, degree of site disturbance caused by the tree removal and any associated risks to public health and safety. If an applicant proposes removal or disturbance of a tree located in an area where the slope is at least 12%, the applicant shall provide a report prepared by a professional engineer that certifies the proposed tree removal or disturbance, when considered with any proposed mitigation measures, will not result in soil erosion or slope destabilization.

d. Permit Revocation. The commissioner may revoke any permit issued under this subsection for violation of any permit conditions. Violation of any conditions of a permit issued under this subsection shall constitute a violation of this section. The notice revoking a permit shall be served on the permittee and posted upon the premises to which the permit applies. After the notice is served and posted, the permit which has been revoked shall be void and no person may proceed with any further tree removal or site disturbance activities within the primary environmental corridor on the premises. Before any tree removal or site disturbance activities are resumed, a new permit shall be procured.

e. Permit Exemptions. No permit shall be required for Milwaukee county or any other governmental or non-profit conservation entity that has a mission or purpose consistent with the purpose of this section and that conducts its activities in accordance with the forest best management practices promoted by the Wisconsin department of natural resources and the Accredited National Standard Institute (ANSI) A300 Tree Care Operation Standards, as amended. Permit exemptions may be approved at the discretion of the commissioner upon receipt of

documentation from the entity seeking exemption confirming that the entity meets the criteria for exemption. Any exemption may be revoked by the commissioner in accordance with the procedure for permit revocation if the exempt entity violates the provisions of this section or the commissioner has reasonable grounds to believe that the exempt entity has violated this section.

6. ENFORCEMENT. a. Violations. When the commissioner determines that a willful violation of the provisions of this section exists, or has reasonable grounds to believe that a violation exists, the commissioner may order the person to correct the violation by issuing a notice of violation or a stop-work order. If the person to whom the notice or order was issued fails to take corrective action after receiving the notice or order, the commissioner shall take whatever steps are necessary to correct the violation, including but not limited to using city forces or private contractors. When trees are removed, destroyed or damaged beyond recovery in violation of this section, the commissioner may require that the trees be replaced on a 2-to-one diameter basis. Failure to replace trees as required by the commissioner shall constitute a violation of this section.

b. Recovery of Costs. Any costs incurred by the commissioner in correcting violations of this section shall be billed to the owner of the premises and payable within 30 days. If the owner fails to pay within 30 days, the bill shall become a lien on the real property and collectible in accordance with s. 66.0627, Wis. Stats.

c. Citations. In addition to other applicable enforcement procedures and pursuant to the authority of s. 66.0113, Wis. Stats., the commissioner may issue citations pursuant to the citation procedure set forth in s. 50-25 to any person who violates any provision of this section.

d. Penalties. Any person who violates any provision of this section shall, upon conviction, forfeit not less than \$150 per violation per day nor more than \$5,000 for each premises found to be in violation, together with the cost of the action.

**For the legislative history of chapter 252,
Contact the Municipal Research Library.**

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[Pages 476-478 are blank]

12/17/2024

