

Section 98-901 Purpose of Procedural Regulations*through***Section 98-902 Amendment of Zoning Regulations****ARTICLE IX: PROCEDURES AND ADMINISTRATION****Section 98-901 Purpose of Procedural Regulations**

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

Section 98-902 Amendment of Zoning Regulations

- (1) **Purpose:** The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed amendments to provisions of this Chapter. (Refer to the requirements of Wisconsin Statutes 62.23(7)(d)).
- (2) **Initiation of Request for Amendment to this Chapter:** Proceedings for amendment of this Chapter may be initiated by any one of the following three methods:
 - (a) an application by any member of the general public;
 - (b) a recommendation of the Plan Commission; or
 - (c) by action of the Common Council.
- (3) **Application Requirements:** All applications for proposed amendments to this Chapter, regardless of the party of their initiation per (2) above shall be approved as complete by the Zoning Administrator prior to the formal initiation of this procedure. The submittal of an application to the City Clerk to initiate this procedure shall not occur until the Zoning Administrator has certified acceptance of the complete application to the City Clerk. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the Zoning Administrator, without an application. Prior to the submittal of the Official Notice regarding the application to the newspaper by the City Clerk, the Applicant shall provide the City Clerk with 20 copies of the complete application as certified by the Zoning Administrator. Said complete application shall be comprised of all of the following:
 - (a) A copy of the portion of the current provisions of this Chapter which are proposed to be amended, with said provisions clearly indicated in a manner which is clearly reproducible with a photocopier;
 - (b) A copy of the text which is proposed to replace the current text; and
 - (c) As an optional requirement, the applicant may wish to provide written justification for the proposed text amendment, consisting of the reasons why the Applicant believes the proposed text amendment is in harmony with the recommendation of the City of Lake Geneva Comprehensive Master Plan, particularly as evidenced by compliance with the standards set out in subsection (4)(c)1.-5., below.
- (4) **Review by the Zoning Administrator:** The proposed text amendment shall be reviewed by the Zoning Administrator as follows:
 - (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the

Section 98-902 Amendment of Zoning Regulations*through***Section 98-902 Amendment of Zoning Regulations**

application is not complete or does not fulfill the requirements of this Chapter, he shall return the application to the Applicant. If the Zoning Administrator determines that the application is complete, he shall so notify Applicant.

- (b) Upon notifying the Applicant that his application is complete, the Zoning Administrator shall review the application and evaluate and comment on the written justification for the proposed text amendment which may be provided in the application per Subsection (3)(a)-(c), above.
- (c) The Zoning Administrator may also evaluate the application to determine whether the requested text amendment is in harmony with the recommendations of the City of Lake Geneva's Comprehensive Master Plan, particularly as evidenced by compliance with the standards of Subsection (4)(c)1.-5., below:
1. The proposed text amendment furthers the purposes of this Chapter as outlined in Section 98-005.
 2. The proposed text amendment furthers the purposes of the general Article in which the amendment is proposed to be located.
 3. The proposed text amendment furthers the purposes of the specific Section in which the amendment is proposed to be located.
 4. The following factors have arisen that are not properly addressed in the current zoning text:
 - a. The provisions of this Chapter should be brought into conformity with the Comprehensive Plan. (If a factor related to the proposed amendment, note pertinent portions of the Comprehensive Plan.);
 - b. A change has occurred in the land market, or other factors have arisen which require a new form of development, a new type of land use, or a new procedure to meet said change(s);
 - c. New methods of development or providing infrastructure make it necessary to alter this Chapter to meet these new factors;
 - d. Changing governmental finances require amending this Chapter in order to meet the needs of the government in terms of providing and affording public services.
 5. If the proposed text amendment is concerned with the provisions of Article II and/or III: The proposed amendment maintains the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts.
- (d) The Zoning Administrator shall forward the report per (4)(b), and if prepared the report per (4)(c), to the Plan Commission for the Commission's review and use in making its recommendation to Common Council. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Comprehensive Master Plan, the Zoning Administrator shall note this determination in the report.
- (5) **Review, Public Hearing, and Recommendation by the Plan Commission:** Common Council shall not make an amendment to this Chapter without allowing for a recommendation from the Plan Commission per the provisions of this Subsection.
- (a) The Plan Commission shall schedule a reasonable time and place for a public hearing to consider the application within 45 days after the acceptance and determination of the complete application as determined by the Zoning Administrator. The Applicant may

**Section 98-903 Amendment of Official Zoning
Map****Section 98-903 Amendment of Official Zoning
Map**

appear in person, by agent, and/or by attorney. Notice of the proposed amendment and the public hearing shall conform to the requirements of Section 62.23(7)(d) of the Wisconsin Statutes. Said notice shall contain a description of the proposed text change. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant, and to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.

- (b) Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant and granted by the Plan Commission), the Plan Commission shall make a written report to the Common Council stating its findings regarding Subsection (4), above, and its recommendations regarding the application as a whole. Said report shall include a formal finding of facts developed and approved by the Plan Commission concerning the requirements of (4)(b)1. through 5., above.
- (c) If the Plan Commission fails to make a report within 60 days after the filing of said complete application (and in the absence of a Applicant-approved extension per (b), above), then the Common Council may hold a public hearing within 30 days after the expiration of said 60 day period. Failure to receive said written report from the Plan Commission per Subsection (5)(a), above, shall not invalidate the proceedings or actions of Common Council. If such a public hearing is necessary, Common Council shall provide notice per the requirements of Subsection (a), above. *State Law Reference: Section 62.23(7)(d).*
- (d) If the Plan Commission recommends approval (or denial) of an application, it shall state in the minutes or in a subsequently issued written decision, its conclusion and any finding of facts supporting its conclusion as to the following: that the potential public benefits of the proposed amendment outweigh (or do not outweigh) any and all potential adverse impacts of the proposed amendment, as identified in Subsections (4)(b)1.-5. above, after taking into consideration the proposal by the Applicant.
- (6) **Review and Action by Common Council:** Common Council shall consider the Plan Commission's recommendation regarding the proposed text amendment. The Council may request further information and/or additional reports from the Plan Commission, Zoning Administrator, and/or the Applicant. The Council may take final action on the application at the time of its initial meeting, or may continue the proceedings at the Applicant's request. Common Council may approve the amendment as originally proposed, may approve the proposed amendment with modifications (per the recommendations of the Zoning Administrator, the Plan Commission, authorized outside experts, or its own members), or may deny approval of the proposed amendment. If the Common Council wishes to make significant changes in the proposed text amendment, as recommended by the Plan Commission, then the procedure set forth in Section 62.23(7)(d) of the Wisconsin Statutes shall be followed prior to Council action. Any action to amend the provisions of the proposed amendment, or to reverse the recommendation of the Plan Commission, requires five votes of the Council regardless of quorum size. The Common Council's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.
- (7) **Effect of Denial:** No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.
- (8) **Fee:** A fee is required for this procedure. Refer to Section 98-935.

Section 98-903 Amendment of Official Zoning Map*through***Section 98-903 Amendment of Official Zoning Map****Section 98-903 Amendment of Official Zoning Map**

- (1) **Purpose:** The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed amendments to provisions of the Official Zoning Map (see Sections 98-103 and 98-107). (Refer to the requirements of Wisconsin Statutes 62.23(7)(d)).
- (2) **Initiation of Request for Amendment to Official Zoning Map:** Proceedings for amendment of the Official Zoning Map may be initiated by any one of the following three methods:
 - (a) an application of the owner(s) of the subject property;
 - (b) a recommendation of the Plan Commission; or
 - (c) by action of the Common Council.
- (3) **Application Requirements:** All applications for proposed amendments to the Official Zoning Map, regardless of the party of their initiation per (2) above, shall be filed in the office of the Zoning Administrator, and shall be approved as complete by the Zoning Administrator prior to the formal initiation of this procedure. The submittal of an application to the City Clerk to initiate this procedure shall not occur until the Zoning Administrator has certified acceptance of the complete application to the City Clerk. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the Zoning Administrator, without an application. Prior to the submittal of the Official Notice regarding the application to the newspaper by the City Clerk, the Applicant shall provide the City Clerk with 20 copies of the complete application as certified by the Zoning Administrator. Said complete application shall be comprised of all of the following:
 - (a) A map of the subject property showing all lands for which the zoning is proposed to be amended, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current tax records of the City of Lake Geneva. Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
 - (b) A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole; and
 - (c) As an optional requirement, the applicant may wish to provide written justification for the proposed amendment to the Official Zoning Map, consisting of the reasons why the Applicant believes the proposed map amendment is in harmony with the recommendations of the City of Lake Geneva Comprehensive Master Plan, particularly as evidenced by compliance with the standards set out in Subsection (4)(c)1.-3, below.
- (4) **Review by the Zoning Administrator:** The proposed amendment to the Official Zoning Map shall be reviewed by the Zoning Administrator as follows:
 - (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Chapter, he shall

Section 98-903 Amendment of Official Zoning Map*through***Section 98-903 Amendment of Official Zoning Map**

return the application to the Applicant. If the Zoning Administrator determines that the application is complete, he shall so notify the Applicant.

- (b) Upon notifying the Applicant that his application is complete, the Zoning Administrator shall review the application and evaluate and comment on the written justification for the proposed map amendment which may be provided in the application per Subsection (3)(a)-(c), above.
- (c) The Zoning Administrator may also evaluate the application to determine whether the requested amendment to the Official Zoning Map is in harmony with the recommendations of the City of Lake Geneva's Comprehensive Master Plan, particularly as evidenced by compliance with the standards of Subsection (4)(c)1.-3., below:
1. The proposed Official Zoning Map amendment furthers the purposes of this Chapter as outlined in Section 98-005 and the applicable rules and regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA).
 2. The following factors have arisen that are not properly addressed on the current Official Zoning Map:
 - a. The designations of the Official Zoning Map should be brought into conformity with the Comprehensive Plan;
 - b. A mistake was made in mapping on the Official Zoning Map. (That is, an area is developing in a manner and purpose different from that for which it is mapped.) NOTE: If this reason is cited, it must be demonstrated that the discussed inconsistency between actual land use and designated zoning is not intended, as the City may intend to stop an undesirable land use pattern from spreading;
 - c. Factors have changed, (such as the availability of new data, the presence of new roads or other infrastructure, additional development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district;
 - d. Growth patterns or rates have changed, thereby creating the need for an Amendment to the Official Zoning Map.
 3. The proposed amendment to the Official Zoning Map maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
- (d) The Zoning Administrator shall forward the report per (4)(b), and if prepared the report per (4)(c), to the Plan Commission for the Commission's review and use in the making its recommendation to Common Council. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Comprehensive Master Plan, the Zoning Administrator shall note this determination in the report.
- (5) **Review, Public Hearing, and Recommendation by the Plan Commission:** Common Council shall not make an amendment to the Official Zoning Map without allowing for a recommendation from the Plan Commission per the provisions of this Subsection.
- (a) The Plan Commission shall schedule a reasonable time and place for a public hearing to consider the application within 45 days of the acceptance and determination of the complete application as determined by the Zoning Administrator. The Applicant may appear in person, by agent, and/or by attorney. Notice of the proposed amendment and

**Section 98-903 Amendment of Official Zoning
Map***through***Section 98-903 Amendment of Official Zoning
Map**

the public hearing shall conform to the requirements of Section 62.23(7)(d) of the Wisconsin Statutes. Said notice shall contain a description of the subject property and the proposed change in zoning. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant; to all property owners within 200 feet of the boundaries of the subject property as identified in Subsection (3)(a), above; and to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.

- (b) Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant and granted by the Plan Commission), the Plan Commission shall make a written report to the Common Council stating its findings regarding Subsection (4), above, and its recommendations regarding the application as a whole. Said report shall include a formal finding of facts developed and approved by the Plan Commission concerning the requirements of (4)(b)1. through 3., above.
- (c) If the Plan Commission fails to make a report within 60 days after the filing of said complete application (and in the absence of an Applicant-approved extension per (b), above), then the Common Council may hold a public hearing within 30 days after the expiration of said 60 day period. Failure to receive said written report from the Plan Commission per Subsection (5)(a), above, shall not invalidate the proceedings or actions of Common Council. If such a public hearing is necessary, Common Council shall provide notice per the requirements of Subsection (a), above. *State Law Reference: Section 62.23(7)(d).*
- (d) If the Plan Commission recommends approval (or denial) of an application, it shall state in the minutes or in a subsequently issued written decision, its conclusion and any finding of facts supporting its conclusion as to the following: (1) that the potential public benefits of the proposed amendment outweigh (or do not outweigh) any and all potential adverse impacts of the proposed amendment, as identified in Subsections (4)(b)1.-3. above, after taking into consideration the proposal by the Applicant.
- (6) **Review and Action by Common Council:** Common Council shall consider the Plan Commission's recommendation regarding the proposed amendment to the Official Zoning Map. The Council may request further information and/or additional reports from the Plan Commission, the Zoning Administrator, and/or the Applicant. The Council may take final action on the application to the Official Zoning Map at the time of its initial meeting, or may continue the proceedings at Applicant's request. Common Council may approve the amendment as originally proposed, may approve the proposed amendment with modifications (per the recommendations of the Zoning Administrator, the Plan Commission, authorized outside experts, or its own members) or may deny approval of the proposed amendment. If the Common Council wishes to make significant changes in the proposed amendment to the Official Zoning Map, as recommended by the Plan Commission, then the procedure set forth in Section 62.23(7)(d) of the Wisconsin Statutes shall be followed prior to Council action. Any action to amend the Official Zoning Map, or to reverse the recommendation of the Plan Commission, requires five votes of the Council regardless of quorum size. The Common Council's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.
- (7) **Effect of Denial:** No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

Section 98-905 Conditional Use Review and Approval*through***Section 98-905 Conditional Use Review and Approval**

- (8) **Fee:** A fee is required for this procedure. Refer to Section 98-935.
- (9) **Floodland District Boundary Changes Limited:** The Common Council shall not permit changes to the floodland district boundaries that are inconsistent with the purpose and intent of this Chapter or in conflict with the applicable rules and regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA).
- (a) Changes in the Floodway Overlay District boundaries shall not be permitted where the change will increase the flood stage elevation by 0.1 foot or more, unless the applicant has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase. The only way the 1.0 foot limit may be exceeded is through obtaining a waiver from the Federal Emergency Management Agency for a specific project that necessarily exceeds the one foot increase in flood elevation. Applications for Floodway Overlay District changes shall show the affects of the change within the associated floodfringe, and shall provide adjusted water surface profiles and adjusted floodland limits to reflect the increased flood elevations.
- (b) Changes in the Floodplain Conservancy Overlay District boundaries shall not be permitted where the change will increase the flood stage elevation by 0.1 foot or more, unless the application has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase. In no event shall a change be permitted that would increase the flood stage elevation by more than 1.0 foot. Applications for Floodplain Conservancy Overlay District changes shall show the affects of the change within the associated floodfringe, and shall provide adjusted water surface profiles and adjusted water surface profiles and adjusted floodland limits to reflect the increased flood elevations.
- (c) Removal of land from the floodland districts shall not be permitted unless the land has been filled to an elevation at least two feet above the elevation of the regional flood and provided that such land is contiguous to lands lying outside of the floodlands.
- (d) Amendment of floodlands which were delineated by approximate methods shall not be permitted unless the Applicant provides the City with engineering data showing the flood profile, necessary river cross-sections, flood elevations, and any effect the establishment of a floodway/floodfringe will have on flood stages. The effects shall be limited as set forth above for changes in subparagraphs (1) and (2) above. If the proposed development is less than five acres in area, and where the cost of the proposed development is estimated to be less than \$125,000.00, the Department of Natural Resources (DNR) will assist the Applicant in determining the required flood elevations.
- (e) No river or stream shall be altered or relocated until a floodland zoning change has been applied for and granted in accordance with the requirements of this Section, and until all adjacent communities have been requested to review and comment on the proposed alteration or relocation. The flood carrying capacity of the altered or relocated watercourse shall not be reduced to less than the flood carrying capacity before the water-course was altered or relocated. All necessary state and federal permits shall be obtained.
- (f) Notice to and approvals by DNR and FEMA. A copy of all notices for amendments or rezoning in the Floodland Districts shall be transmitted to the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA) at least 10 days prior to the public hearing. No amendments to the floodland district boundaries or regulations shall become effective until approved by the DNR and reviewed

Section 98-905 Conditional Use Review and Approval*through***Section 98-905 Conditional Use Review and Approval**

by the FEMA. In the case of floodland district boundary changes, an official letter of map amendment from the FEMA may also be required.

Section 98-905 Conditional Use Review and Approval**(1) Purpose**

- (a) The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses.
- (b) Certain uses in situations which are of such a special nature, or are so dependent upon actual contemporary circumstances, as to make impractical the predetermination of permissibility, or the detailing in this ordinance of specific standards, regulation, or conditions which would permit such determination in each individual situation, may be permitted as conditional uses.
- (c) Under this Chapter, a proposed conditional use shall be denied unless the Applicant can demonstrate, to the satisfaction of the City, that the proposed Conditional Use will not create undesirable impacts on nearby properties, the environment, nor the community as a whole.
- (d) **Limited Conditional Uses:** Limited conditional uses are the same as regular conditional uses excepting that further, in the considered findings of the Common Council and the granting thereof, because of any of the following: Their particularly specialized nature, their particular locations within a district, the peculiar unique relationships or needed compatibility of uses to involved individuals, or any other reason(s) the Common Council deems specially relevant and material to delimit the scope thereof.. should be of lesser permanence than regular conditional uses and the duration or term of existence may be established until time certain or be limited to a future happening or event at which time the same shall terminate.

(2) **Initiation of Request for Approval of a Conditional Use:** Proceedings for approval of a conditional use may be initiated by an application of the owner(s) of the subject property.

(3) **Application Requirements:** All applications for proposed conditional uses shall be approved as complete by the Zoning Administrator prior to the initiation of this procedure. The submittal of an application to the City Clerk to initiate this procedure shall not occur until the Zoning Administrator has certified acceptance of the complete application to the City Clerk. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the Zoning Administrator, without an application. Prior to the submittal of the Official Notice regarding the application to the newspaper by the City Clerk, the Applicant shall provide the City Clerk with 20 copies of the complete application as certified by the Zoning Administrator. Said complete application shall be comprised of all of the following:

- (a) A map of the subject property showing all lands for which the conditional use is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Walworth County (as provided by the City of Lake Geneva). Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a

Section 98-905 Conditional Use Review and Approval*through***Section 98-905 Conditional Use Review and Approval**

photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;

- (b) A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole;
 - (c) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations;
 - (d) A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of Section 98-908(3). If the proposed conditional use is a cluster development (per Section 98-206(1)(b) through (f)) or a group development (per Section 98-208) a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan per Section 98-908;
 - (e) As an optional requirement, the Applicant may wish to provide written justification for the proposed conditional use consisting of the reasons why the Applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in Subsection (4)(b)1.-6., below.
- (4) **Review by The Zoning Administrator:** The proposed conditional use shall be reviewed by the Zoning Administrator as follows:
- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Chapter, he shall return the application to the Applicant. If the Zoning Administrator determines that the application is complete, he shall so notify Applicant.
 - (b) Upon notifying the Applicant that his application is complete the Zoning Administrator shall review the application and evaluate and comment on the written justification for the proposed conditional use provided in the application per Subsection (3)(e), above. The Zoning Administrator shall also evaluate the application to determine whether the requested is in harmony with the recommendations of the City's Comprehensive Master Plan, particularly as evidenced by compliance with the standards of Subsection (4)(b)1.-6. below:
 - 1. The proposed conditional use (the use in general, independent of its location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 - 2. The proposed conditional use (in its specific location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.
 - 3. The proposed conditional use, in its proposed location and as depicted on the required site plan (see (3)(d), above), does not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Chapter, the Comprehensive Plan, or any other plan, program, map, or

Section 98-905 Conditional Use Review and Approval*through***Section 98-905 Conditional Use Review and Approval**

ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.

4. The proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
 5. The proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.
 6. The potential public benefits of the proposed conditional use outweigh all potential adverse impacts of the proposed conditional use (as identified in Subsections 1. through 5., above), after taking into consideration the Applicant's proposal and any requirements recommended by the Applicant to ameliorate such impacts.
- (c) The Zoning Administrator shall forward the report per (4)(b) to the Plan Commission for the Commission's review and use in making its recommendation to Common Council. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Comprehensive Master Plan, the Zoning Administrator shall note this determination in the report.
- (5) **Review, Public Hearing, and Recommendation by the Plan Commission:** Common Council shall not approve a conditional use without allowing for a recommendation from the Plan Commission per the provisions of this Subsection.
- (a) The Plan Commission shall schedule a reasonable time and place for a public hearing to consider the application within 45 days after the acceptance and determination of the complete application as determined by the Zoning Administrator. The Applicant may appear in person, by agent, and/or by attorney. Notice of the proposed conditional use and the public hearing shall conform to the requirements of Section 62.23(7)(d) of the Wisconsin Statutes. Said notice shall contain a description of the proposed conditional use. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant, and to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
 - (b) Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant and granted by the Plan Commission), the Plan Commission shall make a written report to the Common Council stating its findings regarding Subsection (4), above, and its recommendations regarding the application as a whole. Said report shall include a formal finding of facts developed and approved by the Plan Commission concerning the requirements of (4)(b)1. through 6., above.
 - (c) If the Plan Commission fails to make a report within 60 days after the filing of said complete application (and in the absence of a Applicant-approved extension per (b), above), then the Common Council may hold a public hearing within 30 days after the expiration of said 60 day period. Failure to receive said written report from the Plan Commission per Subsection (5)(a), above, shall not invalidate the proceedings or actions of Common Council. If such a public hearing is necessary, Common Council shall provide notice per the requirements of Subsection (a), above. *State Law Reference: Section 62.23(7)(d).*
 - (d) If the Plan Commission recommends approval (or denial) of an application, it shall state in the minutes or in a subsequently issued written decision, its conclusion and any finding of

Section 98-905 Conditional Use Review and Approval*through***Section 98-905 Conditional Use Review and Approval**

facts supporting its conclusion as to the following: (1) that the potential public benefits of the proposed conditional use outweigh (or do not outweigh) any and all potential adverse impacts of the proposed conditional use, as identified in Subsections (4)(b)1.-6. above, after taking into consideration the proposal by the Applicant.

- (6) **Review and Action by Common Council:** Common Council shall consider the Plan Commission's recommendation regarding the proposed conditional use. The Council may request further information and/or additional reports from the Plan Commission, Zoning Administrator, and/or the Applicant. The Council may take final action on the application at the time of its initial meeting, or may continue the proceedings at the Applicant's request. Common Council may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications (per the recommendations of the Zoning Administrator, the Plan Commission, authorized outside experts, or its own members), or may deny approval of the proposed conditional use. If the Common Council wishes to make significant changes in the proposed conditional use, as recommended by the Plan Commission, then the procedure set forth in Section 62.23(7)(d) of the Wisconsin Statutes shall be followed prior to Council action. Any action to amend the provisions of the proposed conditional use, or reverse the recommendation of the Plan Commission, requires five votes of the Council regardless of quorum size. The Common Council's approval of the requested conditional use shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed conditional use.
- (7) **Effect of Denial:** No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence, or proof of change of factors, is found to be valid by the Zoning Administrator.
- (8) **Termination of an Approved Conditional Use:** Upon approval by Common Council, the Applicant must demonstrate that the proposed conditional use meets all general and specific conditional use requirements in the site plan required for initiation of development activity on the subject property per Section 98-908. Once a conditional use is granted, no Erosion Control Permit, Site Plan approval (per Section 98-908), Certificate of Occupancy (per Section 98-909), or Building Permit shall be issued for any development which does not comply with all requirements of this Chapter. Any conditional use found not to be in compliance with the terms of this Chapter shall be considered in violation of this Chapter and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of the Common Council, following the procedures outlined in Subsections (2) through (7), above.
- (9) **Time Limits on the Development of Conditional Use:** The start of construction of any and all conditional uses shall be initiated within 365 days of their approval by Common Council and shall be operational within 730 days of said approval. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this Section, "operational" shall be defined as the granting of a Certificate of Occupancy for the conditional use. Prior to such a revocation, the Applicant may request an extension of this period. Said request shall require formal approval by Common Council and shall be based upon a showing of acceptable justification (as determined by Common Council).
- (10) **Discontinuing an Approved Conditional Use:** Any and all conditional uses which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.

Section 98-906 Temporary Use Review and Approval*through***Section 98-906 Temporary Use Review and Approval**

- (11) **Change of Ownership:** All requirements of the approved conditional use shall be continued regardless of ownership of the subject property, except where limited explicitly by the Common Council. Modification, alteration, or expansion of any conditional use in violation as approved per (6), above, without approval by Common Council, shall be grounds for revocation of said conditional use approval per (8), above. For Bed and Breakfast land uses the granting of a Conditional Use Permit shall be valid while said property is owned by the owner at time of conditional use approval.
- (12) **Recording of Conditional Use Requirements:** Except for conditional use approvals for temporary uses, a certified copy of the authorizing resolution, containing identifiable description and any specific requirements of approval, shall be recorded by the City with the County Register of Deeds office.
- (13) **Notice to the DNR:** The Plan Commission shall transmit a copy of each application for a conditional use for conservancy regulations in the Shoreland-Wetland, Floodway, Floodplain, or Floodfringe Overlay Zoning Districts to the Wisconsin Department of Natural Resources (DNR) for review and comment at least 10 days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to conditional uses for shoreland-wetland conservancy regulations or to floodland regulations shall be transmitted to the DNR within 10 days of the date of such decision.
- (14) **Uses Now Regulated as Conditional Uses which were Approved as Legal Land Uses -- Permitted by Right or as Conditional Uses -- Prior to the Effective Date of this Chapter:** A use now regulated as a conditional use which was approved as a legal land use -- either permitted by right or as a conditional use -- prior to the Effective Date of this Chapter shall be considered as a legal conforming land use so long as the previously approved conditions of use and site plan are followed. Any modification of the previously approved conditions of use or site plan shall require application and City consideration under this Section.
- (15) **Fee:** One or more fees are required for this procedure. Refer to Section 98-935(1)(d).

Section 98-906 Temporary Use Review and Approval**(1) Purpose**

- (a) The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed temporary use.
- (b) Temporary uses are those uses which have the potential to create undesirable impacts on nearby properties if allowed to develop simply under the general requirements of this Chapter. In addition to such potential, temporary uses also have the potential to create undesirable impacts on nearby properties which potentially cannot be determined except on a case by case basis. In order to prevent this from occurring, all temporary uses are required to meet certain procedural requirements applicable only to temporary uses, in addition to the general requirements of this Chapter and the requirements of the zoning district in which the subject property is located. A public hearing process is not required to review a request for a temporary use.
- (c) Land uses proposed which fail to meet one of the requirements for temporary uses of Section 98-206, may be reviewed as a conditional use. (See Section 98-202(3)(b).)
- (2) **Regulations Applicable to All Temporary Uses:** No public hearing is required to develop a temporary use, however, a demonstration that the developer proposes to meet all temporary

Section 98-907 Sign Permit*through***Section 98-907 Sign Permit**

use requirements of this Article and Article IV must be made at time of site plan application (see Section 98-908). Furthermore, no Building Permit or Certificate of Occupancy shall be issued for any development which does not comply with all requirements of this Chapter (see Section 98-909). Any temporary use found not to be in compliance with the terms of this Chapter shall be considered in violation of this Chapter and shall be subject to all applicable procedures and penalties.

- (3) **Application Requirements:** All applications for proposed temporary uses, shall be approved as complete by the Zoning Administrator prior to the formal initiation of this procedure. Said complete application shall be comprised of all of the following:
- (a) A map of the subject property showing all lands for which the temporary use is proposed, and all other lands within 300 feet of the boundaries of the subject property. Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
 - (b) A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole;
 - (c) A written description of the proposed temporary use describing the type of activities, buildings, and structures proposed for the subject property and their general locations; and
 - (d) The Zoning Administrator may require a site plan of the subject property. Said site plan shall conform to any and all the requirements of Section 98-908(3).
- (4) **Approval by Zoning Administrator:** Approval of a temporary use shall be by the Zoning Administrator following review of said complete application per (3) above.
- (5) **Fee:** A fee is required for this procedure. Refer to Section 98-935.

Section 98-907 Sign Permit

- (1) **Purpose:** The purpose of this Section is to provide a procedure and requirement for obtaining a Sign Permit prior to the erection of certain signs.
- (2) **General Requirement:** Unless specifically exempted by Article VIII, no sign shall be erected, altered, or relocated after the effective date of this Chapter (see Section 98-011) until a Sign Permit has been secured from the Zoning Administrator.
- (3) **Application Requirements:** All applications for sign permits shall be made in writing on a form supplied by the City of Lake Geneva Zoning Administrator. Said application shall be submitted with all required information provided and shall contain or have attached thereto the following information:
- (a) The approved site plan for the subject property (per Section 98-908), (or if not previously required, a site plan for the subject property with requirements as determined by the Zoning Administrator), showing the location and dimensions of all buildings, structures, and signs on the subject property; said subject property boundaries; and the location of the proposed sign;
 - (b) The configuration of the proposed sign listing the height, width, total square footage, method of attachment, method of illumination, and sign materials;

Section 98-908 Site Plan Review and Approval *through***Section 98-908 Site Plan Review and Approval**

- (c) The subject property's zoning designation; and
 - (d) The total area of all signs on the subject property both before and after the installation of the proposed sign.
- (4) **Procedure:** The Zoning Administrator shall review the submitted application for compliance with the requirements of Subsection (3), above and per Section 98-802. Upon the receipt of a complete application, the Zoning Administrator shall review said application for compliance with the requirements of this Chapter, and shall issue an approved or denied Sign Permit based on the submitted application within five working days of the acceptance of the complete application.
- (5) **Termination of a Sign Permit:** Any sign found not to be in compliance with the terms of this Chapter shall be considered in violation of this Chapter and shall be subject to all applicable procedures and penalties.
- (6) **Fee:** A fee is required for this procedure. Refer to Section 98-935.

Section 98-908 Site Plan Review and Approval

- (1) **Purpose:** The purpose of this Section is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this Section are designed to ensure that all proposed land use and development activity complies with the requirements of this Chapter. Specifically, this Section requires that the initiation of all development activity (including building permits, zoning certificates, occupancy permits for a change of use of an existing lot or structure where there is contemplated a site plan revision, clear cutting, grading or filling) require the approval of site, building and operational plans by the City staff before the building, occupancy, and zoning permits can be issued -- except, however, that development activity associated with an approved final plat of subdivision or certified survey map for single-family and/or duplex dwelling units, and development activity associated with the full and complete implementation of a project approved within the PD phase of the Planned Development District [PD] is exempt from this requirement; however, a survey prepared and certified by a registered surveyor shall be prepared for any proposed development activity for such uses.
- (2) **Procedure**
- (a) **Initiation of Request for Approval of a Site Plan:** Proceedings for approval of a site plan shall be initiated by the owner(s) of the subject property, or their legally authorized representative(s).
 - (b) **Pre-Application Meeting:** The petitioner shall first meet with the Zoning Administrator and other applicable City Staff to discuss preliminary concepts and plans for the development. Guidance will be provided to the Petitioner on technical requirements and procedures, and a timetable for project review may be discussed.
 - (c) **Application for Site Plan Review and Review by Zoning Administrator:** The petitioner shall apply to the Zoning Administrator for the scheduling of an appearance before the City staff. The Zoning Administrator shall notify the petitioner of the date and time of the applicable meeting. The meeting with the City staff shall not be scheduled unless the application is approved as complete by the Zoning Administrator per the requirements of Subsection (3), below. The review of the submitted application shall be completed within ten working days of application submittal. Once the application is approved as complete by the Zoning Administrator, the Zoning Administrator may schedule a meeting with City staff

Section 98-908 Site Plan Review and Approval *through* **Section 98-908 Site Plan Review and Approval**

a minimum of two weeks from the date of complete application acceptance. At time of acceptance and meeting scheduling, the Zoning Administrator shall forward copies of the complete application (as provided by the Petitioner) to the all pertinent City staff.

(3) **Application Requirements:** All applications for proposed site plans shall be approved as complete by the Zoning Administrator prior to the formal initiation of this procedure. The submittal of an application to the Zoning Administrator to initiate this procedure shall not occur until the Zoning Administrator has certified acceptance of the complete application. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. Said complete application shall be comprised of all of the following:

(a) Written Description of the intended use describing in reasonable detail the:

1. existing zoning district(s) (and proposed zoning district(s) if different);
2. land use plan map designation(s);
3. Natural Resources Site Evaluation Worksheet (Section 98-303);
4. current land uses present on the subject property;
5. proposed land uses for the subject property (per Section 98-206);
6. projected number of residents, employees, and daily customers;
7. proposed amount of dwelling units, floor area, impervious surface area, and landscape surface area, and resulting site density, floor area ratio, impervious surface area ratio, and landscape surface area ratio;
8. operational considerations relating to hours of operation, projected normal and peak water usage, sanitary sewer or septic loadings, and traffic generation;
9. operational considerations relating to potential nuisance creation pertaining to noncompliance with the performance standards addressed in Article VII (Sections 98-701-98-721) including, street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. If no such nuisances will be created (as indicated by complete and continuous compliance with the provisions of Article VII), then the statement "The proposed development shall comply with all requirements of Article VII." shall be provided;
10. exterior building and fencing materials (Sections 98-718 and 98-720);
11. possible future expansion and related implications for 1-10, above, and;
12. any other information pertinent to adequate understanding by the Plan Commission of the intended use and its relation to nearby properties.

(b) A Small Location Map at 11" x 17" showing the subject property, all properties within 300 feet, and illustrating its relationship to the nearest street intersection. (A photocopy of the pertinent section of the City's Official Zoning Map with the subject property clearly indicated shall suffice to meet this requirement.)

(c) A Property Site Plan drawing (and reduction at 11" x 17") which includes:

1. A title block which indicates the name, address and phone/fax number(s) of the current property owner and/or agent(s) (developer, architect, engineer, planner) for project;

Section 98-908 Site Plan Review and Approval *through***Section 98-908 Site Plan Review and Approval**

2. The date of the original plan and the latest date of revision to the plan;
 3. A north arrow and a graphic scale. Said scale shall not be smaller than one inch equals 100 feet;
 4. A legal description of the subject property;
 5. All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
 6. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
 7. All required building setback lines;
 8. All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;
 9. The location and dimension (cross-section and entry throat) of all access points onto public streets;
 10. The location and dimension of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus required by this Chapter;
 11. The location and dimension of all loading and service areas on the subject property and labels indicating the dimension of such areas;
 12. The location of all outdoor storage areas and the design of all screening devices;
 13. The location, type, height, size and lighting of all signage on the subject property;
 14. The location, height, design/type, illumination power and orientation of all exterior lighting on the subject property -- including the clear demonstration of compliance with Section 98-707;
 15. The location and type of any permanently protected green space areas;
 16. The location of existing and proposed drainage facilities; and
 17. In the legend, data for the subject property:
 - a. Lot Area;
 - b. Floor Area;
 - c. Floor Area Ratio (b/a);
 - d. Impervious Surface Area;
 - e. Impervious Surface Ratio (d/a); and
 - f. Building Height.
- (d) A Detailed Landscaping Plan of the subject property, at the same scale as the main plan (and reduction at 11" x 17"), showing the location of all required bufferyard and landscaping areas, and existing and proposed Landscape Point fencing and berm options for meeting said requirements. The Landscaping Plan shall demonstrate complete compliance with the requirements of Article VI. (NOTE: the individual plant locations and species, fencing types and heights, and berm heights need to be provided.)

Section 98-908 Site Plan Review and

Section 98-908 Site Plan Review and Approval *through*

Approval

- (e) A Grading and Erosion Control Plan at the same scale as the main plan (and reduction at 11" x 17") showing existing and proposed grades, including retention walls and related devices, and erosion control measures per the following detailed requirements:
- (f) Elevation Drawings of proposed buildings or proposed remodeling of existing buildings showing finished exterior treatment shall also be submitted, with adequate labels provided to clearly depict exterior materials, texture, color and overall appearance. Perspective renderings of the proposed project and/or photos of similar structures may be submitted, but not in lieu of adequate drawings showing the actual intended appearance of the buildings. (Refer to Section 98-718.)
- (g) A Certified Survey may be required by the Zoning Administrator in instances where he determines compliance with setback requirements may be difficult. The survey shall be prepared by a registered land surveyor and shall depict property lines, and proposed buildings, structures, and paved areas.
- (h) A Detailed Site Analysis per the following submission and review process:
1. **Purpose:** The detailed site analysis required by this Article is designed to provide the clear identification of permanently protected green space areas on a site which is proposed for development. The detailed survey work required to identify these areas accurately on a map is not required prior to the initiation of development concept plans for an area. A detailed site analysis shall be performed in conjunction with required land division documents or development site plans for any and all properties containing permanently protected natural resource areas.
 2. **Description:** The detailed site analysis shall be shown on a map of the subject property which depicts the location of all protected natural resource areas, as defined by the provisions of this Article, and as located by an on-site survey. The detailed site analysis shall meet the following requirements:
 - a. **Scale:** A minimum scale of one inch equals 200 feet shall be used.
 - b. **Topography:** Topographic information is not required for any property which does not contain steep slopes (as designated on the Official Zoning Map). For such properties, topographic information with a minimum contour interval of two feet is required.
 - c. **Specific Natural Resources Areas:** All natural resource areas which require protection under the provisions of this Chapter shall be accurately outlined and clearly labeled. Particular care as to clarity shall be taken in areas where different resource types overlap with one-another. The Staff of the Southeastern Wisconsin Regional Planning Commission, the Wisconsin Department of Natural Resources, or other expert recognized by one of these agencies, shall stake the edge of the resource in the field, and this staked line shall be transferred by a registered surveyor or engineer to the site plan base map. (Ord. No. 99-4 3/8/99)
 - d. **Development Pads:**
 1. All site disruption (including selective cutting) proposed to occur within permanently protected natural resource areas shall be limited to development pads. Development pads shall be depicted on the detailed site analysis map, site plans required for development permits, and the recorded Plat of Subdivision or Certified Survey Map.

Section 98-908 Site Plan Review and Approval *through***Section 98-908 Site Plan Review and Approval**

2. Beyond visible damage to natural resources, vegetation, soil, and drainage patterns, site disruption activities shall not compact soil covering tree roots, or otherwise damage trees beyond the area from which trees are to be removed. All trees with calipers exceeding 3 inches, whose canopies are located adjacent to disturbed areas, which die within a period of five years following site disruption shall be replaced by the property owner with a 3 inch caliper tree of the same type (canopy or understory). Therefore, care shall be taken to ensure that equipment and actions associated with permitted site disruption activities are limited to the area in which they are permitted. The use of snow fences and other barriers to outline development pads during disruption activity is strongly recommended to limit the extent of inadvertent compaction or other disturbance of earth, and collision damage to vegetation intended for protection. Such barriers should be placed no closer to protected trees than a point on the ground directly under their outer canopy edge.
 - e. **Mitigation Areas:** All mitigation areas related to the provisions of this Chapter shall be depicted on the detailed site analysis map with notations provided which describe the mitigation techniques employed.
3. **Required Procedure for Submission and Review**
- a. **Required Timing of Submission:** The detailed site analysis map shall be submitted to the Zoning Administrator for initial review prior to, or concurrently with, the submission of the Preliminary Plat of Subdivision or the Certified Survey Map; or if the proposed development does not involve a land division, then submittal is required as an attachment to a required site plan. A concept plan of the proposed development may be submitted prior to the submission of the detailed site analysis map, however, in no way does the acceptance and/or general approval of the concept plan indicate the approval of natural resource feature locations. A detailed site analysis map prepared for the subject property which has been previously approved by City Staff, may be submitted for any subsequent development activity on the site. However, modifications to such a previously approved map will be required if the analysis is no longer accurate for the subject property.
 - b. **Review by City Staff:** City staff shall review the submitted detailed site analysis map for general compliance with the following data sources:
 1. The Official Zoning Map;
 2. Applicable USGS 7.5 minute topographic maps for the City of Lake Geneva and its environs;
 3. Air photos of the subject property;
 4. USGS Quads and other sources of topographic information;
 5. Applicable FEMA and related floodplain maps;
 6. Applicable Federal and State Wetland Inventory Maps;
 7. The City of Lake Geneva Comprehensive Master Plan; and
 8. Site visits. The Zoning Administrator shall provide the petitioner with a written evaluation of the submitted detailed site analysis map which shall indicate the acceptance by City Staff; or the need for further analysis work, discussion with the petitioner and/or Staff-recognized experts, or a joint site visit.

Section 98-908 Site Plan Review and Approval *through* **Section 98-908 Site Plan Review and Approval**

- c. **Modification of Detailed Site Analysis Map:** If necessary, as determined by City Staff, revised detailed site analysis maps shall be prepared and submitted for review by City Staff, until a version is deemed acceptable. Staff review of the detailed site analysis map may be appealed to the Board of Zoning Appeals as a matter of Ordinance Interpretation. (See Section 98-934.)
 - d. **Acceptance of Detailed Site Analysis Map:** Upon notification of acceptance by City Staff, (or in case of appeal, by determination of the Board of Zoning Appeals), the petitioner may proceed with the submittal of necessary development documents.
4. **Integration of Detailed Site Analysis Information with Required Development and/or Land Division Documents:** Information contained on the detailed site analysis map relating to the boundaries of permanently protected green space areas (including natural resource protection areas, other permanently protected green space areas, and required mitigation areas) shall be clearly depicted on any and all site plans required as a precondition for application for any development permit (such as a Building Permit) and on any proposed Plat of Subdivision or Certified Survey Map.

(4) Review by the Plan Commission

- (a) The Plan Commission, in its consideration of the submitted complete application, shall take into account the basic intent of the Zoning Ordinance to ensure attractive, efficient, and appropriate development of land in the community, and to ensure particularly that every reasonable step has been taken to avoid depreciating effects on surrounding property and the natural environment. Beyond protection of the public health, safety and welfare, this Section shall enable the Plan Commission to consider factors related to community aesthetics, urban design, and architectural consistency within the community. The Plan Commission, in reviewing the application may require such additional measures and/or modifications to any or all elements of the site plan as described in the application submittal required per Section (3)(a)-(h), as it deems necessary to accomplish this objective. If such additional measures and/or modifications are required, the Plan Commission may withhold approval of the Site Plan until a revisions depicting such additional measures and/or modifications are submitted to the satisfaction of the Plan Commission, or may approve the application subject to the provision of a revised application reflecting the direction of the Plan Commission to the satisfaction of the Zoning Administrator. Such amended plans and conditions applicable to the proposed use shall be made a part of the official record, and development activity on the subject property may not proceed until the revised application has been approved by one of the two above procedures as directed by the Plan Commission.
- (b) In reviewing said application the Plan Commission shall make findings on each of the following criteria to determine whether the submitted site plan shall be approved, approved with modification, or denied:
 - 1. All standards of the Zoning Ordinance and other applicable City, State and Federal regulations are met;
 - 2. The public health and safety is not endangered;
 - 3. Adequate public facilities and utilities are provided;

Section 98-908 Site Plan Review and Approval *through* **Section 98-909 Certificate of Occupancy**

4. Adequate control of stormwater and erosion are provided and the disruption of existing topography, drainage patterns, and vegetative cover is maintained insofar as is practical;
 5. Appropriate traffic control and parking are provided;
 6. Appropriate landscaping and open space areas are provided;
 7. The appearance of structures maintains a consistency of design, materials, colors, and arrangement with nearby properties of similar use, which comply with the general architectural guidelines provided in subsections i. through v., below:
 - a. Exterior construction materials shall be consistent with Section 98-718;
 - b. Exterior building design or appearance shall not be of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards;
 - c. Exterior building design or appearance shall not be so identical with nearby buildings so as to create excessive monotony or drabness. A minimum of five basic home styles shall be provided in each residential subdivision;
 - d. Exterior building design or appearance shall not be constructed or faced with an exterior material which is aesthetically incompatible with other nearby buildings or which presents an unattractive appearance to the public and from surrounding properties; and
 - e. Exterior building, sign, and lighting design or appearance shall not be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area.
- (5) **Initiation of Land Use or Development Activity:** Except with the written permission of the Zoning Administrator, absolutely no land use or development activity, including site clearing, grubbing, or grading shall occur on the subject property prior to the approval of the required site plan. Any such activity prior to such approval shall be a violation of this Chapter and shall be subject to all applicable enforcement mechanisms and penalties.
- (6) **Modification of an Approved Site Plan:** Any and all variation between development and/or land use activity on the subject property and the approved site plan is a violation of this Chapter. An approved site plan shall be revised and approved via the procedures of Subsections (2) and (4), above, so as to clearly and completely depict any and all proposed modifications to the previously approved site plan, prior to the initiation of said modifications.
- (7) **Sunset Clause:** All buildings on an approved site plan not fully developed within two years of final Common Council approval shall expire, and all other portions of a project on an approved site plan not fully developed within a period of five years of final Common Council approval shall expire, and no additional site plan development shall be permitted on undeveloped portions of the subject property. The Common Council may extend this period, as requested per the Applicant, through the conditional use process following a public hearing.
- (8) **Fee:** A fee is required for this procedure. Refer to Section 98-935.

Section 98-909 Certificate of Occupancy *through* **Section 98-909 Certificate of Occupancy**

Section 98-909 Certificate of Occupancy

- (1) **Purpose:** The purpose of this Section is to provide regulations governing the review and approval of Certificates of Occupancy. This procedure is required to ensure completed development complies with the approved site plan (per the requirements of Section 98-908), and the requirements of this Chapter as a whole.
- (2) **Land Uses and Development Requiring a Certificate of Occupancy:** Certificates of Occupancy shall be required for any of the following:
 - (a) Occupancy and use of a building or structure hereafter erected or structurally altered.
 - (b) New occupancy and use of an existing building when the new use is of a different land use classification (a different line in Table 98-203).
 - (c) Occupancy and use of vacant land.
 - (d) New use of vacant land when the new use is of a different land use classification (a different line in Table 98-203).
 - (e) Any change in the use of a nonconforming use. No such occupancy, use of change of use shall take place until a Certificate of Occupancy therefore shall have been issued by the Building Inspection Superintendent.
- (3) **Issuance of Certificate of Occupancy**
 - (a) Every application for a Building Permit shall also be deemed to be an application for a Certificate of Occupancy for a new building or for an existing building which is to be substantially altered or enlarged as determined by the Zoning Administrator. Such Certificate shall be issued within ten working days after a written request for the same has been made to the Building Inspector after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Chapter.
 - (b) Written application for a Certificate of Occupancy for the use of vacant land or for a change in the use of land or of a building, or for a change in a nonconforming use, as herein provided, shall be made to the Building Inspector; if the proposed use is in conformity with the provisions of this Chapter, the Certificate of Occupancy shall be issued within ten working days after the application therefore has been made.
 - (c) Every Certificate of Occupancy shall state that both the building, and the proposed use of a building or land, substantially complies with all provisions of this Chapter. A record of all Certificates of Occupancy shall be kept on file in the office of the Building Inspector and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.
- (4) **Certificate of Occupancy for Legal Nonconforming Uses:** Upon application, a Certificate of Occupancy shall be issued for all lawful nonconforming uses of land or buildings created by adoption of this Chapter, or in existence at the effective date of this Chapter (see Section 98-011). Application for such Certificate of Occupancy for nonconforming use shall be filed with the Building Inspector by the owner or lessee of the building or land occupied by such nonconforming use within one year of the effective date of this Chapter. It shall be the duty of the Building Inspector to issue a Certificate of Occupancy for a legal nonconforming use.
- (5) **Termination of a Certificate of Occupancy:** It shall constitute a violation of this Chapter for any person, firm, corporation, or voluntary association, either owner or agent, to do any of the things mentioned in Subsection (2), above, without having first obtained a Certificate of

Section 98-910 Variances*through***Section 98-910 Variances**

Occupancy. Any Certificate issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Building Inspector, he shall forthwith revoke the Certificate of Occupancy, by notice in writing to be delivered by him to the holder of the void Certificate upon the premises where the violation has occurred, or if such holder be not found there, by mailing the said notice of revocation by Certified Letter to his last known address. Any person who shall proceed thereafter with such work or use without having obtained a new Certificate of Occupancy shall be deemed guilty of violation of this Chapter.

(6) **Fee:** A fee is required for this procedure. Refer to Section 98-935.

Section 98-910 Variances

- (1) **Purpose:** The purpose of this Section is to provide regulations which enable the City to hear and decide requests for permitted variation from the terms of this Chapter as will not be contrary to the public interest; where owing to special factors, a literal enforcement of the provisions of this Chapter would result in practical difficulty or unnecessary hardship, so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done; as provided for by Wisconsin Statutes 62.23(7)(e)(7).
- (2) **Initiation of Request for Approval of a Variance:** Proceedings for approval of a requested variance shall be initiated by:
 - (a) an application of the owner(s) of the subject property
- (3) **Application Requirements:** All applications for requested variances shall be approved as complete by the Zoning Administrator a minimum of two weeks prior to the initiation of this procedure. The submittal of an application to the City Clerk to initiate this procedure shall not occur until the Zoning Administrator has certified acceptance of the complete application to the City Clerk. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the Zoning Administrator, without an application. Prior to the submittal of the Official Notice regarding the application to the newspaper by the City Clerk, the Applicant shall provide the City Clerk with 20 copies of the complete application as certified by the Zoning Administrator. Said complete application shall be comprised of all of the following:
 - (a) A map of the subject property showing all lands for which the variance is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Walworth County (as determined by the City of Lake Geneva). Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
 - (b) A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole;
 - (c) A written description of the proposed variance describing the type of specific requirements of the variance proposed for the subject property;

Section 98-910 Variances*through***Section 98-910 Variances**

- (d) A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of Section 98-908(3); and,
 - (e) Written justification for the requested variance consisting of the reasons why the Applicant believes the proposed variance is appropriate, particularly as evidenced by compliance with the standard set out in Subsection (4)(c)1.-6., below.
- (4) **Review by The Zoning Administrator:** The requested variance shall be reviewed by the Zoning Administrator as follows:
- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Chapter, he shall return the application to the Applicant. If the Zoning Administrator determines that the application is complete, he shall so notify Applicant.
 - (b) Upon notifying the Applicant that his application is complete, the Zoning Administrator shall review the application and evaluate and comment on the written justification for the proposed variance provided in the application per Subsection (3)(a)-(e), above.
 - (c) The Zoning Administrator may also evaluate the application to determine whether the requested variance is in harmony with the recommendations of the City of Lake Geneva's Comprehensive Master Plan, particularly as evidenced by compliance with the standards of Subsection (4)(c)1.-6., below:
 - 1. What exceptional or extraordinary circumstances or special factors are present which apply only to the subject property? The response to this question shall clearly indicate how the subject property contains factors which are not present on other properties in the same zoning district. Specifically:
 - a. The hardship or difficulty shall be peculiar to the subject property and different from that of other properties, and not one which affects all properties similarly. Such a hardship or difficulty shall have arisen because of the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of the current, applicable zoning regulations, and is not economically suitable for a permitted use or will not accommodate a structure of reasonable design for a permitted use if all area, yard, green space, and setback requirements are observed;
 - b. Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
 - c. Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting-off existing access to a public right-of-way or deed restrictions imposed by the owner's predecessor in title are considered to be such self-imposed hardships;
 - d. Violations by, or variances granted to, neighboring properties shall not justify a variance;
 - e. The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance. (For example, if a lot were unbuildable because of topography in the absence of any or all setback requirements.)

Section 98-910 Variances*through***Section 98-910 Variances**

2. In what manner do the factors identified in 1., above, prohibit the development of the subject property in a manner similar to that of other properties under the same zoning district? The response to this question shall clearly indicate how the requested variance is essential to make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.
 3. Would the granting of the proposed variance be of substantial detriment to adjacent properties? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on adjacent properties.
 4. Would the granting of the proposed variance as depicted on the required site plan (see (3)(d), above), result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of this Chapter, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide growth and development? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.
 5. Have the factors which present the reason for the proposed variance been created by the act of the Applicant or previous property owner or their agent (for example: previous development decisions such as building placement, floor plan, or orientation, lotting pattern, or grading) after the effective date of this Chapter (see Section 98-011.) The response to this question shall clearly indicate that such factors existed prior to the effective date of this Chapter and were not created by action of the Applicant, a previous property owner, or their agent.
 6. Does the proposed variance involve the regulations of Section 98-203 (Table of Land Uses)? The response to this question shall clearly indicate that the requested variance does not involve the provisions of this Section.
- (d) The Zoning Administrator shall forward the report per (4)(b), and if prepared the report per (4)(c), to the Zoning Board of Appeals for the Board's review and action. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Zoning Ordinance and Comprehensive Master Plan, the Zoning Administrator shall note this determination in the report.

(5) Review and Determination by Zoning Board of Appeals

- (a) Within 30 days after filing of the complete application as determined by the Zoning Administrator, the Zoning Board of Appeals shall hold a public hearing. Notice of the requested variance and the public hearing shall conform to the requirements of Section 62.23(7)(d) of Wisconsin Statutes. Said notice shall contain a description of the subject property and the proposed variance per Subsections (3)(a) and (c), above. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant of the proposed variance; to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the subject property; and to all property owners within 300 feet of the boundaries of the subject property as identified in Subsection (3)(a), above.

*through***Section 98-911 Interpretations**

Failure to mail said notice, to said clerk(s) of such neighboring municipalities, provided it is unintentional, shall not invalidate proceedings under this Section.

- (b) Within 30 days after the holding of the public hearing (per (5)(a), above, (or, within an extension of said period approved by the Applicant and granted by the Zoning Board of Appeals), the Zoning Board of Appeals make its findings per Subsection (4), above, and its determination regarding the application as a whole. The Zoning Board of Appeals may request further information and/or additional reports from The Zoning Administrator and/or the Applicant. The Zoning Board of Appeals may take final action on said request for approval of the requested variance at time of its initial meeting, or said proceedings may be continued from time-to-time for further consideration. The Zoning Board of Appeals shall make a written report of its findings and determinations following its determination.
 - (c) If the Zoning Board of Appeals fails to make a determination within 30 days after said public hearing, then the request for the variance shall be considered denied.
 - (d) Said report shall include a formal findings of facts developed and approved by the Zoning Board of Appeals concerning the requirements of (4)(c)1.-6., above.
- (6) **Effect of Denial:** No application for a variance which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.
- (7) **Limited Effect of a Variance:** Where the Zoning Board of Appeals has granted a variance, such approval shall neither change the use classification of the building or premises, nor give it any status as a nonconforming use other than that which it has as a result of the variance. Granting of a variance shall be considered as unique to the variance granted, and shall not be construed as precedent for any other proposed variance.
- (8) **Stay of Proceedings:** An application for a variance shall stay all legal proceedings furthering enforcement of any provisions of this Chapter from which the Applicant is requesting a variance, unless the Zoning Administrator certifies to the Zoning Board of Appeals after the request for the variance has been filed, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals, or by a Court of Record on application, on notice to the Zoning Administrator, and on due cause shown. *State Law Reference: Section 62.23(7)(e)5., Wisconsin Statutes.*
- (9) **Notice to the DNR:** The Zoning Board of Appeals shall transmit a copy of each application for a variance to conservancy regulations in the Shoreland-Wetland, Floodway, Floodplain, or Floodfringe Overlay Zoning Districts, and a copy of all Shoreland floodland appeals, to the Wisconsin Department of Natural Resources (DNR) for review and comment at least 10 days prior to any public hearings. A copy of all decisions relating to variances to shoreland-wetland conservancy regulations or to floodland regulations, and a copy of all decisions to shoreland-wetland conservancy and floodland appeals, shall be transmitted to the DNR within 10 days of the date of such decision.
- (10) **Fee:** A fee is required for this procedure. Refer to Section 98-935.

Section 98-911 Interpretations*through***Section 98-911 Interpretations**

Section 98-911 Interpretations

- (1) **Purpose:** The purpose of this Section is to assign responsibility for the official interpretation of the provisions of this Chapter, and to describe the required procedure for securing such interpretation.
- (2) **Initiation of Request for an Interpretation:** Proceedings for an interpretation may be initiated by any of the following four methods:
 - (a) an application of the owner(s) of the subject property;
 - (b) a recommendation of the Plan Commission;
 - (c) by action of the Common Council, or;
 - (d) by a request by The Zoning Administrator.
- (3) **Application Requirements:** All applications for interpretations, regardless of the party of their initiation per (2) above, shall be approved as complete by the Zoning Administrator a minimum of two weeks prior to the initiation of this procedure. The submittal of an application to the City Clerk to initiate this procedure shall not occur until the Zoning Administrator has certified acceptance of the complete application to the City Clerk. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the Zoning Administrator, without an application. Prior to the submittal of the Official Notice regarding the application to the newspaper by the City Clerk, the Applicant shall provide the City Clerk with 20 copies of the complete application as certified by the Zoning Administrator. Said complete application shall be comprised of all of the following:
 - (a) All requests for interpretations shall clearly indicate the part of the text of this Chapter for which the interpretation is requested and the specific questions the Applicant has regarding said text.
 - (b) If the requested interpretation relates to the application of this Chapter to a specific property, the additional following information shall be required:
 1. A map of the subject property showing all lands for which the interpretation is requested, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Walworth County as provided by the City of Lake Geneva. Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
 2. A map, such as the Land Use Plan Map, of the generalized location of the subject property in relation to the City as a whole;
 3. A written description of the reason for the requested interpretation and how the proposed interpretation relates to type of activities, buildings, and structures currently located on, and proposed for, the subject property; and,
 4. A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of Section 98-908(3).

Section 98-911 Interpretations*through***Section 98-911 Interpretations**

- (c) If the requested interpretation relates to the classification or treatment of a particular land use under the provisions of this Chapter, a series of written responses to the following questions:
1. How is the subject land use (in general) in harmony with the purposes, goals, objectives, policies and standards of the City of Lake Geneva Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City?
 2. How is the subject land use in harmony with the purposes, goals, objectives, policies and standards of the pertinent zoning district for which the interpretation is being sought?
 3. Do the potential public benefits of the proposed interpretation outweigh any and all potential adverse impacts of the proposed interpretation?

(4) Review by Zoning Administrator

- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Chapter, he shall return the application to the Applicant. If the Zoning Administrator determines that the application is complete, he shall so notify Applicant.
- (b) Upon notifying the Applicant that the application is complete, and within 30 days of such filing, the Zoning Administrator shall review the application and shall evaluate and comment on the written justification for the proposed interpretation provided in the application per Subsection (3), above. This review shall also take into consideration the standards for review presented in Subsection (5), below. The Zoning Administrator shall also evaluate the application to determine whether the requested is in harmony with the recommendations of the City of Lake Geneva's Comprehensive Master Plan.
- (c) The Zoning Administrator shall forward a report to the Applicant indicating the interpretation of the Zoning Administrator. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Comprehensive Master Plan, the Zoning Administrator shall note this determination in the report.

(5) Standards for Review of Requested Interpretations: This Chapter shall be interpreted in a manner which is consistent with the purposes intended by the City of Lake Geneva Common Council as noted in this Chapter and the Comprehensive Plan. The intent of the standards and supporting definitions of this Chapter is to protect both individual property owners and the general public from adverse impacts that may result from a proposed, modified, or existing land use. To this end, those called upon to interpret this Chapter shall proceed as follows:

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

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

Section 98-911 Interpretations*through***Section 98-911 Interpretations**

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

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

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

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

- (d) This Chapter has been carefully designed by the Common Council to combine maximum achievement of public goals, and the protection of adjoining property owners while providing flexibility for property owners to use their land for a variety of uses consistent with the goals and objectives of the Comprehensive Plan for the City of Lake Geneva. Great care has been taken to balance the rights of competing groups while achieving maximum protection with flexibility and a range of use options. Persons interpreting this Chapter should not substitute their own judgments for the legislative acts of the Common Council.

- (e) In addition to the Applicant's response to the questions required by Subsection (3) above, the following standards shall govern the decision on the requested interpretation on land use interpretation matters:

1. No interpretation shall allow the establishment of any land use which was previously considered and rejected by the Common Council on an application for an amendment to the Zoning Ordinance, the Official Zoning Map, or a previously applied for appeal from a requested interpretation.
2. No interpretation shall permit a land use listed as a use permitted by right or a conditional use in another zoning district if the use is not listed as permitted in the zoning district of the subject property (see Section 98-203).
3. No interpretation shall permit a land use in a zoning district unless evidence is presented which demonstrates that the land use will comply with any and all regulations applicable to development in the subject property's zoning district (see Sections 98-203 and 98-206).

Section 98-912 Appeals of Zoning Interpretations**Section 98-912 Appeals of Zoning Interpretations***through*

4. No interpretation shall permit a land use in a particular zoning district unless such use is substantially similar to other uses permitted in that same district and is more similar to such other uses than to uses either not permitted in said district, or permitted in a more intensive district in the same zoning district category (see Sections 98-102 and 98-203).
 5. If the proposed land use is more similar to a land use permitted only as a conditional use in the subject property's district than to a use permitted by right, then an interpretation permitting such use shall be conditioned upon the approval of a conditional use pursuant to Section 98-905.
- (6) **Effect of a Favorable Land Use Interpretation:** No interpretation finding a particular land use to be permitted or conditionally permitted in a specific zoning district shall authorize either the establishment of such use or the development, construction, reconstruction, alteration or moving of any building or structure. A favorable interpretation merely authorizes the preparation, filing, and processing of applications for any permits and approvals which may be required by this Chapter. These permits and approvals include, but are not limited to required site plans, conditional uses, and certificates of occupancy.
- (7) **Limitations on Favorable Land Use Interpretation**
- (a) No interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the interpretation, unless a Building Permit is issued and development is actually begun within that period, and is thereafter diligently pursued to completion, or a Certificate of Occupancy is obtained and a use commenced within that period.
 - (b) An interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be deemed to authorize only that particular use at that particular location for which the interpretation was issued. The interpretation shall not be deemed to authorize any allegedly similar use for which a separate interpretation has not been issued. A favorable interpretation shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.
- (8) **Fee:** A fee is required for this procedure. Refer to Section 98-935.

Section 98-912 Appeals of Zoning Interpretations

- (1) **Purpose:** The purpose of this Section is to provide regulations which enable the City to hear and decide requests for appeals from the interpretations of the Zoning Administrator per Section 98-911 as provided for by Wisconsin Statutes 62.23(7)(e)(7).
- (2) **Initiation of Request for Review of Zoning Interpretation:** Proceedings for the review of an appeal may be initiated by any person aggrieved, or by any officer, department, board, or bureau of the City affected by any decision of the Zoning Administrator.
- (3) **Time Limit for Filing An Appeal:** Any appeal of an interpretation under the provisions of this Section shall be made per the requirements of Subsection (4), below, within a period not exceeding 45 days from the date of issuance of the interpretation by the Zoning Administrator. Failure to initiate this appeal procedure within this 45 day period shall constitute a final and binding waiver of the right to appeal said interpretation.
- (4) **Application Requirements:** All applications for review of an interpretation, regardless of the party of their initiation per (2) above, shall be filed in the office of the Zoning Administrator, and

Section 98-912 Appeals of Zoning Interpretations*through***Section 98-912 Appeals of Zoning Interpretations**

shall be approved as complete by the Zoning Administrator a minimum of two weeks prior to the initiation of this procedure. The Zoning Administrator shall forward copies of said complete application to the office of the City Clerk, and to the Zoning Board of Appeals. Said complete application shall be accompanied by all of the following:

- (a) A copy of pertinent items in the file on the matter at hand maintained by the Zoning Administrator, as identified by the Zoning Administrator and/or the Applicant.
 - (b) A written statement from the Applicant indicating the reasons why an appeal is justified, based upon an analysis of the Zoning Administrator's interpretation. This statement shall be dated and signed by the Applicant.
- (5) **Review by the Zoning Administrator:** The submitted appeal shall be reviewed by The Zoning Administrator in the following steps:
- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Chapter, he shall return the application to the Applicant. If the Zoning Administrator determines that the application is complete, he shall so notify Applicant.
 - (b) Upon notifying Applicant that the application is complete, the Zoning Administrator shall review the application and shall evaluate and comment on the written justification for the appeal to the Zoning Board of Appeals as submitted by the Applicant. The Zoning Administrator shall also evaluate the application to determine whether the requested is in harmony with the recommendations of the City of Lake Geneva's Comprehensive Master Plan.
 - (c) The Zoning Administrator shall forward a report to the Zoning Board of Appeals for review and action. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Comprehensive Master Plan or Zoning Ordinance, the Zoning Administrator shall note this determination in the report.
- (6) **Review and Action by the Zoning Board of Appeals**
- (a) Within 45 days after the filing of the complete application as determined by the Zoning Administrator, the Zoning Board of Appeals shall schedule a reasonable time and place for a public hearing to consider the application. Notice of the appeal and said public hearing shall conform to Section 63.23(7)(d) of the Wisconsin Statutes. Said notice shall contain a description of the issue per Subsection (4)(b), above. At least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant; to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter; and to any property owner within 300 feet of the subject property. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.
 - (b) Within 60 days after the filing of the complete application as determined by the Zoning Administrator (or, within an extension of said period requested in writing by the Applicant and granted by the Zoning Board of Appeals), the Zoning Board of Appeals make its findings per Subsection (3) above. The Zoning Board of Appeals may request further information and/or additional reports from The Zoning Administrator and/or the Applicant. The Zoning Board of Appeals may take final action on the application for appeal at the time of its initial meeting, or may continue the proceedings at Applicant's request. Said final action shall be followed by a written report which shall include a formal finding of facts developed and approved by the Zoning Board of Appeals concerning the request.

**Section 98-913 Downtown Design Overlay
Zoning District****Section 98-913 Downtown Design Overlay
Zoning District***through*

- (c) If the Zoning Board of Appeals fails to make a determination within 60 days after the filing of said complete application, then the request for the appeal shall be considered denied.
- (7) **Effect of Denial:** No application for an appeal which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.
- (8) **Limited Effect of a Favorable Ruling on an Appeal**
- (a) No ruling by the Zoning Board of Appeals on an appeal finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the ruling on the appeal, unless a building permit is issued and development is actually begun within that period, and is thereafter diligently pursued to completion, or a Certificate of Occupancy is obtained and a use commenced within that period.
- (b) A ruling by the Zoning Board of Appeals on an appeal finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be deemed to authorize only that particular use at that particular location for which the ruling was issued. The ruling shall not be deemed to authorize any allegedly similar use for which a separate ruling has not been issued. A favorable ruling shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.
- (9) **Fee:** A fee is required for this procedure. Refer to Section 98-935.

Section 98-913 Downtown Design Overlay Zoning District

- (1) **Purpose and Scope:** This district is intended to implement the urban design recommendations of the comprehensive master plan by preserving and enhancing the historical quality of the downtown, and by attaining a consistent visually pleasing image for the downtown area. This district is designed to forward both aesthetic and economic objectives of the City by controlling the site design and appearance of development within the district in a manner which is consistent with sound land use, urban design, and economic revitalization principles. The application of these standards will ensure the long-term progress and broad participation toward these principles.
- (2) **Definitions**
- (a) Design Review Commission: The Design Review Commission is comprised of members of the Plan Commission.
- (b) cornice: The topmost projecting portion of the entablature, or top portion of a building. This term also refers to any "crowning" projection of a building.
- (c) header: A brick laid so that the end only appears on the face of the wall, as opposed to a stretcher, which is a brick laid so that the side only appears.
- (d) kickplate: A horizontal area on the façade of a building located between the sidewalk/entrance pavement and the lowest storefront windows.
- (e) sign band: A horizontal area on the façade of a building located between the transom and the cornice, which is typically opaque and provides a location for signage indicating the name of the establishment.
- (f) sill: A horizontal, lower member or bottom of a door or window casing.

**Section 98-913 Downtown Design Overlay
Zoning District***through***Section 98-913 Downtown Design Overlay
Zoning District**

- (g) transom: A horizontal bar of stone, wood or glass across the opening of a door or window.
- (3) **Designation of Downtown Design Overlay Zoning District Boundaries**: All properties having frontage on either side of the following described route, and all other properties located within the boundaries of described route: BEGINNING at the intersection of Main Street and Cook Street; thence south along Cook Street to Wrigley Street; thence southeast along Wrigley Street to Baker Street; thence east along Baker Street to Lakeshore Drive; thence north along Lakeshore Drive to Main Street; thence along Main Street to the former Railroad; thence northwest along the former Railroad to Geneva Street; thence westerly along Geneva Street to Broad Street; thence northerly along Broad Street to abandoned railroad right-of-way; thence southerly along Broad Street to Geneva Street; thence west along Geneva Street to Cook Street; thence south along Cook Street to the point and place of BEGINNING. (Ord. No. 02-35 1/28/02)
- (4) **Powers and Duties of the Zoning Administrator, Design Review Commission, and Plan Commission for All Development**: Proposed changes to the exterior appearance of properties used exclusively for residential purposes and which do not have frontage on Main Street are hereby excluded from the provisions of this Section. All other applications within the Downtown Design Overlay Zoning District are subject to one of the following three processes, as determined by the Zoning Administrator:
- (a) Applications which involve *only a renovation of the exterior appearance of a property* (such as repainting, re-roofing, residing or replacing with identical colors and materials approved by the City and listed in the attached Appendix), or a change in the exterior appearance of a property in absolute clear and complete compliance with the provisions of Subsection (6) below (as determined by the Zoning Administrator), are subject to **Downtown Renovation Review** by the Zoning Administrator. The Zoning Administrator shall determine whether the petition requires only certification of thorough compliance with the technical requirements set out in Subsection (5)(a) below. In part, this effort shall be guided by the City of Lake Geneva Comprehensive Master Plan;
- (b) Applications which involve *only a change in the appearance of a property* (such as painting, roofing, siding, architectural component substitution, fencing, paving, or signage), are subject to **Downtown Design Review** by the Zoning Administrator and the Design Review Commission. The Zoning Administrator shall serve as the liaison between the applicant and the Design Review Commission, in facilitating the thorough and expedient review of an application, and shall ensure that the technical and procedural requirements of the Zoning Ordinance are met. The Design Review Commission shall serve as the final review and determining body in these matters, and shall focus its review on whether the application complies with sound aesthetic, urban design, historic and architectural practices pursuant to the procedures outlined in Subsection (5)(b), below. In part, this effort shall be guided by the comprehensive master plan;
- (c) Applications which involve *modification to the physical configuration of a property* (such as grading, the erection of a new building, the demolition of an existing building, or the addition or removal of bulk to an existing building) are subject to **Downtown Project Review** by the Zoning Administrator, the Plan Commission, and the Design Review Commission. The Zoning Administrator shall serve as the liaison between the applicant, the Plan Commission and the Design Review Commission in facilitating the thorough and expedient review of an application, and shall ensure that the technical and procedural requirements of the Zoning Ordinance are met. The Plan Commission shall serve as the initial and final discretionary review body on site design, and shall focus its review on the

**Section 98-913 Downtown Design Overlay
Zoning District***through***Section 98-913 Downtown Design Overlay
Zoning District**

application's compliance with sound land use, site design and economic revitalization practices. In part, this effort shall be guided by the comprehensive master plan. The Design Review Commission shall serve as the initial and final review and determining body on aesthetics, and shall focus its review on whether the application complies with sound aesthetic, urban design, historic and architectural practices pursuant to the procedures outlined in Subsection (5)(c), below. In part, this effort shall be guided by the comprehensive master plan.

(5) Procedures for Downtown Project Review and Approval

(a) **Downtown Renovation Review:** Applications which involve *only a renovation of the exterior appearance of a property* (such as repainting, re-roofing, residing or replacing with identical colors and materials approved by the City and listed in the attached Appendix), or a change in the exterior appearance of a property in absolute clear and complete compliance with the provisions of Subsection (6) below (as determined by the Zoning Administrator), are subject to **Downtown Renovation Review** by the Zoning Administrator. The Zoning Administrator shall serve to determine whether the applications simply requires certification of thorough compliance with the technical requirements below. In part, this effort shall be guided by the attached appendix, which provides a list of sample projects which are eligible for this form of review. (Refer to the procedure summary chart at the end of this Section.)

1. **Application Requirements:** All applications for Downtown Renovation Review shall be made to the Zoning Administrator and shall be accompanied by the Building Permit application, and, in addition, shall be accompanied by all of the following:
 - a. A clear depiction of the *existing appearance* of the property. Clear color photographs are recommended for this purpose. Scaled and dimensioned drawings of existing components such as windows, doors, railings, fencing or other site components, and/or detailed building elevations which are proposed for alteration or replacement may be required by the Zoning Administrator;
 - b. A clear depiction of the *proposed appearance* of the property. Paint charts, promotional brochures, and/or clear color photographs of replacement architectural components are recommended for this purpose. Scaled and dimensioned drawings of proposed components such as windows, doors, railings, fencing or other site components, and/or detailed building elevations which are proposed for renovation or replacement may be required by the Zoning Administrator;
 - c. A written description of the proposed renovation, including a complete listing of proposed components, materials, and colors.
 - d. Written justification for the proposed renovation consisting of the reasons why the Applicant believes the requested alteration is in harmony with the recommendations of the comprehensive master plan, particularly as evidenced by compliance with the standards set out in Subsection 2.b., below.
2. **Review by the Zoning Administrator:** The application for Downtown Renovation Review shall be reviewed by the Zoning Administrator as follows:
 - a. Within 20 days after the filing of the application, the Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not complete and does not fulfill the requirements of this ordinance, he shall return the

**Section 98-913 Downtown Design Overlay
Zoning District***through***Section 98-913 Downtown Design Overlay
Zoning District**

application to the Applicant. If the Zoning Administrator determines that the application is complete, he shall so notify Applicant.

- b. Within 20 days after the filing and notification of a complete application, the Zoning Administrator shall review the application which: 1) shall evaluate its status as merely requiring Downtown Renovation Review; and, 2) shall evaluate and comment on the written justification for the proposed alteration provided in the application per Subsection (5)(a)1.d., above. The Zoning Administrator shall also evaluate the application based on the following question: How is the proposed alteration in harmony with the recommendations of the comprehensive master plan, particularly as evidenced by compliance with the standards of Subsection (6), below?
- 3. Action by the Zoning Administrator**
- a. The Zoning Administrator may request further information and/or additional reports from the Applicant.
 - b. The Zoning Administrator may approve the application as originally proposed, may approve the application with modifications, may deny the application, or (where the proposal requires discretionary aesthetic judgment) shall forward the application to Design Review Commission as an application for Downtown Design Review.
 - c. The Zoning Administrator shall not approve any application unless he makes written findings of facts regarding the application.
 - d. The approval of the proposed renovation shall be considered as the approval of a unique request, and shall not be construed as precedent for any other proposed alteration.
- (b) **Downtown Design Review:** Applications which involve *only a change in the appearance of a property* (such as painting, roofing, siding, architectural component substitution, fencing, paving, or signage), are subject to **Design Review** by the Zoning Administrator and the Design Review Commission. The Zoning Administrator shall serve as the liaison between the Applicant and the Design Review Commission in facilitating the thorough and expedient review of an application, and shall ensure that the technical and procedural requirements of the Zoning Ordinance are met. The Design Review Commission shall serve as the final review and determining body in these matters, and shall focus its review on the application's compliance with sound aesthetic, urban design, historic and architectural practices per the procedures outlined below. In part, this effort shall be guided by the comprehensive master plan. (Refer to the procedure summary chart at the end of this Section.)
1. **Procedure:** Downtown Design Review proposals shall follow the procedures for Site Plan Review and Approval, see Section 98-908.
 2. **Application Requirements:** In addition to the application requirements for Site Plan Review and Approval, all applications for Downtown Design Review shall be made to the Zoning Administrator and shall be accompanied by the Building Permit application, and, in addition, shall be accompanied by all of the following:
 - a. A clear depiction of the *existing appearance* of the property. Clear color photographs are recommended for this purpose. Scaled and dimensioned drawings of existing components such as windows, doors, railings, fencing or other site components, and/or detailed building elevations which are proposed for

**Section 98-913 Downtown Design Overlay
Zoning District***through***Section 98-913 Downtown Design Overlay
Zoning District**

alteration or replacement may be required by the Zoning Administrator or by the City;

- b. A clear depiction of the *proposed appearance* of the property. Paint charts, promotional brochures, and/or clear color photographs of replacement architectural components are recommended for this purpose. Scaled and dimensioned drawings of proposed components such as windows, doors, railings, fencing or other site components, and/or detailed building elevations which are proposed for alteration or replacement may be required by the City;
 - c. A written description of the proposed modification, including a complete listing of proposed components, materials, and colors.
 - d. Written justification for the proposed alteration consisting of the reasons why the Applicant believes the requested alteration is in harmony with the recommendations of the comprehensive master plan, particularly as evidenced by compliance with the standards set out in Subsection 2.b., below., using the following question to develop said written justification. How is the proposed alteration in harmony with the recommendations of the comprehensive master plan, particularly as evidenced by compliance with Subsection (6), below?
- (c) **Downtown Project Review:** Applications which involve *modification to the physical configuration of a property* (such as the erection of a new building, the demolition of an existing building, or the addition or removal of bulk to an existing building) are subject to **Downtown Project Review** by the Zoning Administrator, the Plan Commission, and the Design Review Commission. Specifically, the powers of the Zoning Administrator, Plan Commission, and the Design Review Commission within the Urban Design Overlay Zoning District shall be as described in the following sections. The Zoning Administrator shall serve as the liaison between the Applicant, the Plan Commission, and the Design Review Commission, in facilitating the thorough and expedient review of an application, and shall ensure that the technical and procedural requirements of the Zoning Ordinance are met. The Plan Commission shall serve as the initial and final discretionary review body on site design, and shall focus its review on the application's compliance with sound land use, site design and economic revitalization practices. In part, this effort shall be guided by the comprehensive master plan. The Design Review Commission shall serve as the final review and determining body on aesthetics, and shall focus its review on the application's compliance with sound aesthetic, urban design, historic and architectural practices per the procedures outlined below. In part, this effort shall be guided by the comprehensive master plan. (Refer to the procedure summary chart at the end of this Section.)
1. **Procedure:** Downtown Project Review proposals shall follow procedures for Conditional Use Permits, refer to Section 98-905.
 2. **Application Requirements:** In addition to the application requirements for Conditional Use Permits, Section 98-905, all applications for Downtown Project Review shall be made to the Zoning Administrator and shall be accompanied by the Building Permit application, and, in addition, shall be accompanied by all of the following:
 - a. A clear depiction of the *existing appearance* of the property. Clear color photographs are recommended for this purpose. Scaled and dimensioned drawings of existing components such as windows, doors, railings, fencing or other site components, and/or detailed building elevations which are proposed for

**Section 98-913 Downtown Design Overlay
Zoning District***through***Section 98-913 Downtown Design Overlay
Zoning District**

alteration or replacement may be required by the Zoning Administrator or by the Plan Commission.

- b. A clear depiction of the *proposed appearance* of the property. Paint charts, promotional brochures, and/or clear color photographs of replacement architectural components are recommended for this purpose. Scaled and dimensioned drawings of proposed components such as windows, doors, railings, fencing or other site components, and/or detailed building elevations which are proposed for alteration or replacement may be required by the Zoning Administrator or by the Plan Commission.
- c. For all projects involving a new building, or an addition exceeding 100 square feet of gross floor area, a detailed site plan which provides the following information:
 - i. A title block which indicates the name and address of the current property owner, developer and project consultants;
 - ii. The date of the original plan and the latest date of revision to the plan;
 - iii. A north arrow and a graphic scale. Said scale shall not be smaller than one inch equals 100 feet;
 - iv. All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
 - v. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
 - vi. All existing and proposed buildings, structures, and paved areas, including walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;
 - vii. All required building setback lines;
 - viii. A legal description of the subject property;
 - ix. The location, type and size of all signage on the site;
 - x. The location, type and orientation of all exterior lighting on the subject property;
 - xi. The location of all access points, parking and loading areas on the subject property, including a summary of the number of parking stalls and labels indicating the dimension of such areas;
 - xii. The location of all outdoor storage areas;
 - xiii. The location and type of any permanently protected green space areas;
 - xiv. The location of existing & proposed drainage facilities;
 - xv. In the legend, the following data for the subject property:
 - Lot Area;
 - Floor Area;
 - Floor Area Ratio;
 - Impervious Surface Area;
 - Impervious Surface Ratio; and
 - Building Height

**Section 98-913 Downtown Design Overlay
Zoning District****Section 98-913 Downtown Design Overlay
Zoning District***through*

- d. A detailed landscaping plan of the subject property, at the same scale as the main plan, showing the location, species and size of all proposed plant materials.
 - e. A written description of the proposed project, including a complete listing of proposed components, materials, and colors.
 - f. Written justification for the proposed project consisting of the reasons why the Applicant believes the requested alteration is in harmony with the recommendations of the comprehensive master plan, particularly as evidenced by compliance with the standards set out in Subsection 2.b., below., using the following question to develop said written justification: How is the proposed project in harmony with the recommendations of the comprehensive master plan, particularly as evidenced by compliance with the standards of Subsection (9), below?
- (6) **Additional Recommendations Permitted Under the Design Review Process**
- (a) The Zoning Administrator is hereby authorized to make recommendations for, or require modifications to, a proposed application for Downtown Renovation Review; and to make recommendations for the modification of a proposed application for Downtown Design Review or Downtown Project Review.
 - (b) The Design Review Commission is hereby authorized to make recommendations for, or require modifications to, a proposed application for aesthetic aspects for Downtown Design Review and Downtown Project Review.
 - (c) The Plan Commission is hereby authorized to make recommendations for, or require modifications to, a proposed application for site design aspects for Downtown Project Review.
- (7) **Appeals:** Appeals from the decisions of the Zoning Administrator and Plan Commission may be made per the provisions of the Municipal Code and State Statutes.
- (8) **Penalty:** Penalty for violation of the provisions of this Chapter shall be per the provisions of Section 98-936.
- (9) **Downtown Design Standards**
- (a) **Overall Design Theme:** The design theme for the Downtown area is based on historic commercial and residential architectural styles which dominated the economic growth period from 1890 through the 1920s.
 1. **Nonresidential Development:** The design theme varies by location.
 - a. **Main Street Frontage:** Along Main Street frontage from Cook Street to Center Street, the nonresidential design theme is characterized by a variety of architectural styles popular at the time, including Italianate, Romanesque and Neoclassical, in a two story format with office, storage or residential located over commercial. The façades of these buildings have a traditional main street storefront appearance, are relatively small in scale, have street-yard and side-yard setbacks of zero feet, have prominent horizontal and vertical patterns formed by regularly-spaced window and door openings, detailed cornice designs, rich detailing in masonry coursing, window detailing and ornamentation, and are predominantly of brick, stone or wood. Exterior building materials are of high-quality. Exterior appurtenances are minimal. Exterior colors are harmonious, simple and muted. Exterior signage blends, rather than contrasts with buildings in

**Section 98-913 Downtown Design Overlay
Zoning District**
**Section 98-913 Downtown Design Overlay
Zoning District**

through

terms of coloring (complementary to building), location (on-building), size (small) and number (few).

- b. **Remainder of Downtown Design Overlay Zoning District:** In this area, the nonresidential design theme is characterized by a variety of architectural styles popular throughout the entire 20th Century. Building styles, heights, setbacks and details vary significantly. In the desired theme, exterior building materials are of high-quality. Exterior appurtenances are minimal. Exterior colors are harmonious, simple and muted. Exterior signage blends, rather than contrasts with buildings in terms of coloring (complementary to building), location (on-building), size (small) and number (few).
2. **Residential Development:** This theme is characterized by a variety of architectural styles popular at the time, including Queen Anne, Gothic, High Victorian, Georgian, and Prairie. These homes have generous street-yard, side-yard and rear-yard setbacks, and are well-landscaped with a mixture of canopy and understory yard trees, and foundation shrubs and/or flower beds. For illustrative purposes, examples of architectural styles which tend to have elements *incompatible* with Downtown historic styles include (with no attempt to be inclusive) Spanish Mission, Scandinavian Modern, Bavarian, and California Contemporary.

(b) **Non-Residential Construction**

1. **General:** Nonresidential construction, including new structures, building additions, building alterations, and restoration or rehabilitation shall correspond to the downtown design guidelines as determined by the Design Review Commission and as evidenced by certain existing structures within the Downtown and by the following requirements for building setback; height; building mass; horizontal rhythms (created by the placement and design of façade openings and related elements such as piers, columns); vertical rhythms (created by the placement and design of façade details such as sills, transoms, cornices and sign bands); roof forms; exterior materials; exterior surface features and appurtenances; exterior colors; exterior signage; on-site landscaping; exterior lighting; parking and loading area design; and the use of screening.
2. **Building Setback:** Throughout the district, the setback of buildings from street-yard and side-yard property lines shall be compatible with existing buildings in the immediate area which conform to the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above.
3. **Building Height:** Throughout the district, the height of buildings shall be compatible with existing buildings in the immediate area which conform to the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above. In no instance shall buildings

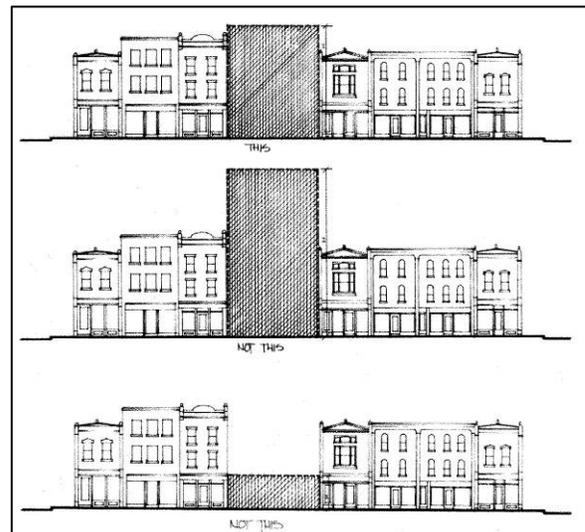


Figure 1

**Section 98-913 Downtown Design Overlay
Zoning District**

through

**Section 98-913 Downtown Design Overlay
Zoning District**

- be more than one story taller or shorter than the height of a building of similar use on one of the immediately adjoining properties, which conform to the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above.
4. **Building Mass:** Throughout the district, the mass of buildings shall be compatible with existing buildings in the immediate area which conform to the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above. The characteristic proportion (relationship between façade height and width) of the general design theme shall be maintained. Building mass for large structures (with a façade area exceeding 5,000 square feet) shall be disguised through the use of façade articulations, or through the use of exterior treatments which give the impression of directly adjoining individual buildings. (See Figures 2 and 3.)
 5. **Horizontal Rhythms:** Along Main Street between Cook Street and Center Street, the horizontal pattern of exterior building elements formed by patterns of building openings for windows and doors, and related elements such as piers and columns shall be spaced at regular intervals across all visible façades of the building, and shall be compatible with those of existing buildings in the immediate area which conform to the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above. (See Figures 2 and 3.)
 6. **Vertical Rhythms:** Along Main Street between Cook Street and Center Street, the floor heights on main façades shall appear visually in proportion to those of adjoining buildings. The rhythm of the ground floor shall harmonize with the rhythm of upper floors. The vertical pattern of exterior building elements formed by patterns of building openings for windows and doors, and related elements such as sills, headers, transoms, cornices and sign bands shall be compatible in design and elevation with those of existing buildings in the immediate area which conform to the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above.

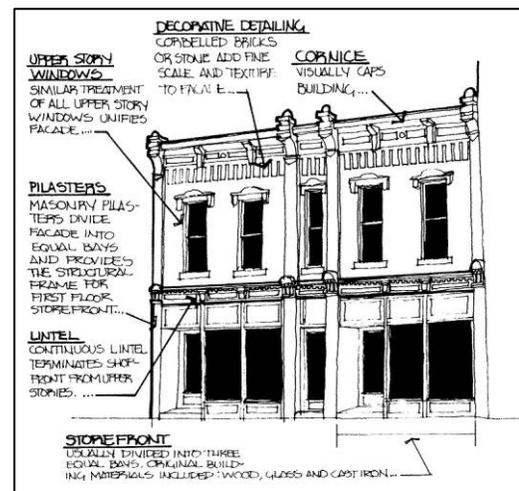


Figure 2

Section 98-913 Downtown Design Overlay
Zoning District

through

Section 98-913 Downtown Design Overlay
Zoning District



Figure 3

7. **Roof Forms:** Along Main Street between Cook Street and Center Street, flat or gently sloping roofs which are not visible from the street shall be used. Mansards or other exotic roof shapes not characteristic of the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above, as determined by the Design Review Commission shall not be used. Throughout the district, roof shapes not characteristic of the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above, shall not be used.
8. **Exterior Materials:** Selected building materials shall be compatible with those of existing buildings in the immediate area which conform to the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above. In addition:
 - a. **Masonry:** Along Main Street between Cook Street and Center Street, stone or brick facing should be of even coloration and consistent size. Cinder block, concrete block, concrete slab, or concrete panel shall not be permitted.
 - b. **Siding:** Along Main Street between Cook Street and Center Street, wood or thin board textured vinyl or textured metal clapboard siding may be appropriate -- particularly if the proposed non-masonry exterior was used on a building which conforms to the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above. In certain instances clapboard, board and batten may be in keeping with the general design theme. Asphalt shingles shall not be permitted.
 - c. **Glazing:** Along Main Street between Cook Street and Center Street, clear, or slightly tinted glass or related glazing material shall be used. Mirrored glass, smoked glass, or heavily tinted glass shall not be permitted.
9. **Exterior Surface Appurtenances:** Exterior surface appurtenances shall be compatible with those of existing buildings in the immediate area which conform to the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above. In addition:

**Section 98-913 Downtown Design Overlay
Zoning District***through***Section 98-913 Downtown Design Overlay
Zoning District**

- a. Along Main Street between Cook Street and Center Street, the traditional storefront design theme (characterized by strong horizontal and vertical rhythms formed by building openings, storefront columns, storefront cornices, upper cornices, kickplates, signbands, large display windows, and transom windows) shall be employed for all new nonresidential buildings -- including retail, office, professional service, personal service, maintenance, lodging, entertainment, and storage uses.
 - b. Throughout the district, avoid cluttering building façades with brackets, wiring, meter boxes, antennae, gutters, downspouts and other appurtenances. Unnecessary signs shall also be avoided. Where necessary, such features shall be colored so as to blend in, rather than contrast, with the immediately adjacent building exterior. Extraneous ornamentation which is inconsistent with the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above, is also prohibited.
 - c. **Awnings:** Throughout the district, awning size, color and placement should complement the architectural character of the building. Soft, weather-treated canvas or vinyl materials which allow for flexible or fixed installation shall be used. Aluminum or suspended metal canopies shall be prohibited. Signage applied to awnings shall be simple and durable. Backlit awnings are prohibited.
10. **Exterior Colors:** Selected exterior colors for structures and appurtenances including fixtures, but not including exterior signage which is regulated per (9)(b)11., below, shall be compatible and harmonious with those of existing buildings in the immediate area which conform to the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above. Specifically, throughout the district:
- a. Primary (red, blue, green, and yellow) colors, black, and fluorescent, "day glow", and/or "neon" colors shall not be permitted. Where such colors constitute a component of a standardized corporate theme or identity, muted versions of such colors shall be used.
 - b. High gloss paints, lacquers, varnishes or other "shiny" non-glazing surfaces shall not be used.
 - c. Color combination schemes shall be limited to no more than three different colors for all the structures and appurtenances on a property. (Varying shades, tints or intensities of a color shall count as a different color for this purpose.)
 - d. Color schemes shall be used consistently throughout the property, including on both the upper and lower portions of buildings, and on all façades of a building or structure.
11. **Exterior Signage:** All signage which is visible from any point outside of the building or structure shall be compatible and harmonious with the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above. Signage regulations are provided in Article VII. In addition:
- a. **Number of Signs:** No more than three exterior signs for the same business shall be visible from any single vantage point on or off the subject property.
 - b. **Area of Signage:** Signage area shall comply with the requirements for the Commercial Business (CB) district in Section 98-806(6).

Section 98-913 Downtown Design Overlay
Zoning District

Section 98-913 Downtown Design Overlay
Zoning District

through

- c. **Types of Signage:** Wall signs, projecting signs (smaller than five square foot) and awning signs (see Subsection 9. d. above, for additional restrictions for awning signs) may be used for individual businesses. Roof signs, mobile signs and portable signs are not permitted in any instance. Holiday and special event signs shall be regulated per Section 98-807 of this Chapter.
- d. **Group Development Signs:** Group Development signs may be wall, projecting, awning or freestanding signs. Such freestanding signs shall be limited to one per lot, shall not exceed the height of the principle building on the subject property, shall be limited in area to a maximum of one square foot of sign area for every two feet of frontage along the public street located closest to the freestanding sign, and shall in no instance exceed the area allocated in Table 98-806(6). The base of freestanding signs shall be fully landscaped per the requirements of Subsection 12. d. below. The supports of freestanding signs shall be constructed of materials and in a style which is consistent with the materials and style of the principle structure on the site, and with the design guidelines as determined by the Design Review Commission.
- e. **Sign Colors:** Fluorescent shall not be permitted. Where such colors constitute a component of a standardized corporate theme or identity, muted versions of such colors shall be used. Color combination schemes shall be limited to no more than three different colors for all the structures and appurtenances on a property. (Varying shades, tints or intensities of a color shall count as a different color for this purpose.) Color schemes and lettering styles shall be used consistently on all signage used throughout the property.
- f. **Sign Materials:** Permitted sign materials include glass, plastic, wood, brass, metal leaf, metal plates, canvass or related fabric, or etched glass, stone or concrete.
- g. **Sign Illumination:** Illumination of exterior signage shall be limited to shielded spotlight. The lighting element of such fixtures shall not be visible from public rights-of-way or adjoining properties. Flashing signs (including illuminated awnings with or without messages) are not permitted, including neon and related illumination systems.
- h. **Sign Location:** Wall signs, canopy signs and projecting signs shall not be located on any portion of upper stories. The location of signs shall fit the building. (See Figure 4, below.)



Figure 4

**Section 98-913 Downtown Design Overlay
Zoning District****Section 98-913 Downtown Design Overlay
Zoning District***through*

- j. **Removal of Signs:** Illegal nonconforming signs, poorly maintained signs, and obsolete signs pertaining to a closed business, shall be removed. The property owner shall be responsible for the removal of such signs.
12. **On-Site Landscaping and Screening:** On-site landscaping is not required within portions of the Downtown Design Overlay Zoning District located along Main Street between Cook Street and Center Street, except to provide vegetated ground cover for pervious (non-paved/roofed) surfaces, and to provide screening and shading of on-site paved areas.
- a. **Groundcover:** All areas which are not covered by impervious paving or structures shall be covered with vegetative groundcover. Appropriate groundcover includes grasses, forbs, and shrubs.
- b. **On-Site Paved Areas:** On-site landscaping shall also be provided for on-site paved areas used for outdoor seating, vehicular parking, or loading, except for pedestrian and vehicle walks and drives which connect such areas to public rights-of-way (such as driveways and walks to building entrances).
- i. **Required Screening:** On-site paved areas, including parking lots, loading areas, circulation drives, and patios shall be partially screened from the view of public rights-of-way and adjoining properties by, at minimum, a continuous vegetated hedge with a minimum width of five feet, and a height of between 40 and 60 inches. This hedge may be supplemented by trees and/or compatible iron, masonry, or wood fencing, and/or berming.
- ii. **Required Shading:** In addition, one canopy tree (with a minimum installed breast height caliper of 2½ inches) shall be provided within, or within five feet of the edge of, on-site paved areas for every 2,000 square feet (or fraction thereof) of paved area.
- c. **Exterior Storage and Utility Areas:** Trash storage areas, air conditioning units, and related storage and utility areas and components shall be fully screened from the view of adjoining properties, public rights-of-way, and customer areas.
- d. **Freestanding Signs:** The base of freestanding signs shall be fully concealed by plants to a minimum height of twenty-four inches.
- e. Additional landscaping standards are found in Article VI.
13. **Exterior Lighting:** Throughout the district, on-site exterior lighting shall be compatible and harmonious with the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above. Specifically:
- a. **Pedestrian Lighting:** The design, color, height, location and light quality of on-site pedestrian lighting shall be consistent with the pedestrian lighting fixtures which compliment the district's character.
- b. **Vehicular Circulation Lighting:** The design, color, height, location and light quality of on-site vehicular circulation lighting shall be consistent with the lighting fixtures which compliment the district's character.
- c. Additional lighting standards are found in Section 98-707.
14. **Rehabilitation and Restoration:** New projects, building additions, and new appurtenances and features shall comply with the provisions of 1-13, above. The

**Section 98-913 Downtown Design Overlay
Zoning District***through***Section 98-913 Downtown Design Overlay
Zoning District**

following standards shall apply where existing construction is proposed for rehabilitation and/or restoration:

- a. **In General:** Buildings shall be restored relying on physical evidence (such as photographs, original drawings, and existing architectural details) as much as possible, in keeping with the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above. Specifically, throughout the Downtown Design Overlay Zoning District:
 - i. **Exterior Materials and Surface Features:** Materials and features identical to the original shall be used. Where such knowledge is lacking, materials and features in common use at the time of building erection shall be used. Significant architectural features, including cornices, moldings and coursings shall be preserved or replaced with identical features and materials where possible.
 - ii. **Windows and Doors:** The size, proportion and rhythm of original windows and doors shall not be altered. Original window and door openings shall not be blocked, except with a dark opaque panel placed behind the window or door to preserve the appearance of the opening. Where now blocked in another manner, blocked window and doors shall be restored using said method. Window and door features, including lintels, sills, architraves, shutters, pediments, hoods and hardware, shall be preserved where possible, or replaced with identical features and materials. Dark frames (i.e. anodized bronze) shall be used to replace storefront and upper story windows. Clear aluminum finishes and mill finish aluminum storm windows are prohibited. Real shutters and awnings shall be used if there is evidence that they were a component of the original building design. Vinyl and plastic shutters and awnings shall be prohibited.
 - iii. **Shop Fronts:** Shop fronts should fit inside the original shop front in terms of all three dimensions (vertical, horizontal and front to back articulation);
 - iv. **Display Windows:** Display windows should be restored to their original appearance.
 - v. **Entrances and Porches:** Original porches and steps shall be retained, except as required to meet accessibility standards. Porches, steps and related enclosures which do not comply with the architectural design theme shall be removed.
 - vi. **Roofs:** The original roof shape and character of visible materials shall be retained. Original architectural features which give the roof its essential character, including dormer windows, cupolas, cornices, brackets, chimneys and weathervanes, shall be preserved if in keeping with the architectural design theme.
 - vii. **Painting and Color:** See Subsection (b) 10., above.
 - viii. **Signage:** Any and all signage, existing upon the adoption date of this Chapter, which does not comply with the standards of Subsection (b) 11., above may be continued so long as well maintained. However, the maintenance of such legal nonconforming signs shall be limited to repair of the sign structural or lighting elements, and to the repainting or replacement of the sign face with identical

**Section 98-913 Downtown Design Overlay
Zoning District****Section 98-913 Downtown Design Overlay
Zoning District***through*

new material, message, and original appearance. Should a change in material, message, or original appearance be desired, the legal nonconforming sign shall be removed.

- ix. **Cleaning:** Structural components and exterior materials shall be cleaned when necessary, and with only the gentlest possible methods. Low pressure water and soft natural bristle brushes are acceptable. Sandblasting is never acceptable. Other methods shall be pre-approved by the Plan Commission.
- (c) **Residential Construction:** Proposed residential construction, located on properties having frontage on Main Street between Cook Street and Center Street, including new structures, building additions, building alterations, and restoration or rehabilitation shall be reviewed per Section (5) above and shall correspond to the design guidelines as determined by the Design Review Commission. The building setback, height, mass, roof form, exterior materials, exterior surface appurtenances, exterior colors, landscaping and lighting shall be compatible and harmonious with the general design theme noted in Subsection (9)(a)1.a., 1.b., and 2., above.
- (d) **Designated Historic Structures:** Landmark Center, 772 Main Street; Riviera Building, 810 Wrigley Drive; Stone Manor, 880 S. Lakeshore Drive; T.C. Smith House, 865 Main Street; Youngland Coach House, 701 S. Lakeshore Drive; St. Moritz, 327 Wrigley Drive.

(10)-(19)Reserved.

(20) **Community Entry Corridor Urban Design Overlay Zoning District:**

- (a) **Requirement of Compatibility:** Proposed site design and construction within this District, including new structures and building additions shall be reviewed, per Section (5) above, by the Plan Commission. The building setback, height, mass, roof form, exterior materials, exterior surface appurtenances, exterior colors, landscaping and lighting shall be compatible with the following General Design Theme, as determined by the Plan Commission.
- (b) **Design Standards for Residential Development:** The General Design Theme for residential development within the Community Entry Corridor Urban Design Overlay Zoning District shall be designed to accommodate typical impacts of transportation and nearby non-residential development -- particularly through the use of building orientation, door and window location and design, and on-site landscaping and related buffering structures or berms. Above and beyond such concerns, particular attention shall be devoted to ensuring that selected residential design components complement nearby residential styles with high-quality building materials, in an attractive manner as becoming an entry corridor, and as determined by the Plan Commission. Where a detailed Neighborhood Plan has been adopted, it should be used to provide additional guidance in the design review process.
- (c) **Design Standards for Non-Residential Development:** The general design theme for non-residential development within the Community Entry Corridor Urban Design Overlay Zoning District is characterized by high-quality building materials, architectural design, site design, and on-site landscaping. Prominent urban design elements and architectural details, which are decorative and functional, shall be considered as a required component of each site within the District. Above and beyond such concerns, particular attention shall be devoted to ensuring that selected non-residential design components complement nearby non-residential styles and to reflect positively on the character of the community, as becoming an entry corridor, and as determined by the Plan Commission. Where a detailed

**Section 98-913 Downtown Design Overlay
Zoning District***through***Section 98-913 Downtown Design Overlay
Zoning District**

Neighborhood Plan has been adopted, it should be used to provide additional guidance in the design review process.

- (d) These requirements shall become effective upon the date of adoption of detailed neighborhood plans and upon the date of depicting these overlay zoning districts on the Official Zoning Map.

(21)-(29)**Reserved.**

(30)Community Gateway Urban Design Overlay Zoning District:

- (a) **Requirement of Compatibility:** Proposed site design and construction within this District, including new structures and building additions shall be reviewed, per Section (5) above, by the Plan Commission. The building setback, height, mass, roof form, exterior materials, exterior surface appurtenances, exterior colors, landscaping and lighting shall be compatible with the following General Design Theme, as determined by the Plan Commission.
- (b) **Design Standards for Residential Development:** The General Design Theme for residential development within the Community Gateway Urban Design Overlay Zoning District shall be designed to accommodate typical impacts of transportation and nearby non-residential development, and to assist in creating a sense of welcome to the City of Lake Geneva -- particularly through the use of building orientation, door and window location and design, and on-site landscaping and related buffering structures or berms. Above and beyond such concerns, particular attention shall be devoted to ensuring that selected residential design components complement nearby residential styles with high-quality building materials, in an attractive manner as becoming a gateway entry to the community, as determined by the Plan Commission. Where a detailed Neighborhood Plan has been adopted, its should be used to provide additional guidance in the design review process.
- (c) **Design Standards for Non-Residential Development:** The general design theme for non-residential development within the Community Entry Corridor Urban Design Overlay Zoning District is characterized by high-quality building materials, architectural design, site design, and on-site landscaping. Prominent urban design elements and architectural details, which are decorative and functional, shall be considered as a required component of each site within the District. Above and beyond such concerns, particular attention shall be devoted to ensuring that selected non-residential design components complement nearby non-residential styles and to reflect positively on the character of the community, and to assist in creating a sense of welcome to the City of Lake Geneva, as becoming a gateway entry area to the community, and as determined by the Plan Commission. Where a detailed Neighborhood Plan has been adopted, its should be used to provide additional guidance in the design review process.
- (d) These requirements shall become effective upon the date of adoption of detailed neighborhood plans and upon the date of depicting these overlay zoning districts on the Official Zoning Map.

(31)-(39)**Reserved.**

**Section 98-914 Planned Development
Procedures**

through

**Section 98-914 Planned Development
Procedures**

Process for Residential and Nonresidential Proposal Review			
↓ Procedure ↓	↓ Type of Proposal ↓		
	Renovation ¹	Design ²	Project ³
1. Optional meeting with Plan Commission to discuss proposal	No	optional	recommende d
2. Submit Zoning Permit Application to the Zoning Administrator, including:	Yes	Yes	Yes
a. Color photos/drawings of existing property, with close-ups of details	Yes	Yes	Yes
b. Drawings/depictions of proposed changes to the site & bldg. exterior	Yes	Yes	Yes
c. For new projects or additions ≥ 100 sf, provide Site Plan including: i. Chapter block with name of current property owner and Applicant; ii. Date of original plan graphic and date of most recent revision; iii. North arrow and graphic scale; iv. Property lines and right-of-way lines (with distances & bearings); v. Easements; vi. Existing and proposed buildings, structures and paved areas; vii. Required building setback lines; viii. Legal description of the property; ix. Location, size, type and orientation of all exterior signage; x. Location, type and orientation of all exterior lighting; xi. Location of all vehicle access drives, circulation areas, loading areas and parking stalls; xii. Location of all outdoor storage and display areas (including trash facilities); xiii. Location and purpose of all drainage facilities; xiv. Location of all permanent green space areas; and, xv. Site Summary Data: Lot Area, Floor Area, Floor Area Ratio, Impervious Surface Area, Impervious Surface Ratio	No	No	Yes
d. Landscaping Plan showing the location, size and type of plants	No	No	Yes
e. Written description of proposal, including exterior materials & colors	Yes	Yes	Yes
f. Written justification of proposal answering: How does the proposal comply with the design standards?	Yes	Yes	Yes
3. Review and action by the Zoning Administrator/City Staff	Yes	Yes	Yes
4. Review and action by the Design Review Commission on aesthetics	No	Yes	Yes
5. Review and action by the Plan Commission on site design	No	No	Yes
6. If proposal is approved: a. Record documents with Register of Deeds; b. Work must start within 365 days and be complete within 730 days; c. Conditions of approval run with the property. If the proposal is denied: It may not be resubmitted for 12 months	Yes	Yes	Yes
<p>KEY: Yes: Step is required. No: Step is not required. ¹Only a renovation of the exterior appearance of a property. ²Only a change in the appearance of a property. ³Modification to the physical configuration of a property.</p>			

**Section 98-914 Planned Development
Procedures***through***Section 98-914 Planned Development
Procedures****Section 98-914 Planned Development Procedures****(1) Purpose**

- (a) The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed Planned Developments, and to provide for the possible relaxation of certain development standards pertaining to other standard zoning districts.
- (b) Planned Developments are intended to provide more incentives for infill development and redevelopment in areas of the community which are experiencing a lack of significant reinvestment. They are also intended to provide for flexible development standards to accommodate unique sites, mixtures of land uses, or development configurations. Furthermore, Planned Developments are designed to forward both the aesthetic and economic development objectives of the City by controlling the site design and the appearance, density or intensity of development in terms of more flexible requirements for land uses, density, intensity, bulk, landscaping, and parking requirements. In exchange for such flexibility, the Planned Development shall provide a much higher level of site design, architectural control and other aspects of aesthetic and functional excellence than normally required for other developments.
- (c) Planned Developments have the potential to create undesirable impacts on nearby properties if allowed to develop simply under the general requirements of this Chapter. In addition to such potential, Planned Developments also have the potential to create undesirable impacts on nearby properties which potentially cannot be determined except with a binding site plan, landscape plan and architectural plan, and on a case by case basis. In order to prevent this from occurring, all Planned Developments are required to meet certain procedural requirements applicable only to Planned Developments, in addition to the general requirements of this Chapter. A public hearing process is required to review a request for a Planned Development. This process shall essentially combine the process for a zoning map amendment with that required for a conditional use, with several additional requirements.

(2) Provision of Flexible Development Standards for Planned Developments

- (a) **Permitted Location:** Planned Developments shall be permitted with the approval of a Planned Development Zoning District, specific to the approved Planned Development, within any one or more Standard Zoning Districts identified in Section 98-102.
- (b) **Flexible Development Standards:** The following exemptions to the development standards of the underlying zoning district may be provided with the approval of a Planned Development:
 - 1. **Land Use Requirements:** All land uses listed as "Residential", "Institutional", or "Commercial" in Section 98-203, and permitted in the base zoning district, may be permitted within a Planned Development.
 - 2. **Density and Intensity Requirements:** All requirements listed in Sections 98-304 and 98-305 for residential density and nonresidential intensity may be waived within a Planned Development.
 - 3. **Bulk Requirements:** All requirements listed in Sections 98-402, 98-403, 98-404, 98-405, 98-406 and 98-407 may be waived within a Planned Development. (Ord. No. 99-11 7/26/99)

**Section 98-914 Planned Development
Procedures***through***Section 98-914 Planned Development
Procedures**

4. **Landscaping Requirements:** All requirements listed in Sections 98-604, 98-605, 98-606, 98-607, 98-608, 98-609 and 98-610 may be waived within a Planned Development.
 5. **Parking and Loading Requirements:** All requirements listed in Sections 98-704 and 98-705 may be waived within a Planned Development.
- (c) **Requirements to Depict All Aspects of Development:** Only development which is explicitly depicted on the required site plan approved by the Common Council as part of the approved Planned Development, shall be permitted, even if such development (including all aspects of land use, density and intensity, bulk, landscaping, and parking and loading), is otherwise listed as permitted in Section 98-403-98-407. Requested exemptions from these standards shall be made explicit by the Applicant in the application, and shall be recommended by the Plan Commission and approved explicitly by the Common Council. If not so requested and approved, such exemptions shall not be permitted.
- (3) **Initiation of Request for Approval of a Planned Development:** Proceedings for approval of a Planned Development shall be initiated by:
- (a) an application of the owner(s) of the subject property;
 - (b) a recommendation of the Plan Commission; or
 - (c) by action of the Common Council.
- (4) **Application Requirements:** All applications for proposed Planned Developments, regardless of the party of their initiation per (3) above, shall be approved as complete by the Zoning Administrator a minimum of two weeks prior to the initiation of this procedure. The Zoning Administrator shall forward copies of said complete application to the office of the City Clerk. Said application shall apply to each of the process steps in (5) through (8) below.
- (5) **PD Process Step 1: Pre-Application Conference**
- (a) The Applicant shall contact the Zoning Administrator to place an informal discussion item for the PD on the Plan Commission agenda.
 - (b) No details beyond the name of the Applicant and the identification of the discussion item as a PD is required to be given in the agenda.
 - (c) At the Plan Commission meeting, the Applicant shall engage in an informal discussion with the Plan Commission regarding the potential PD. Appropriate topics for discussion may include the location of the PD, general project themes and images, the general mix of dwelling unit types and/or land uses being considered, approximate residential densities and non-residential intensities, the general treatment of natural features, the general relationship to nearby properties and public streets, and relationship to the Master Plan.
 - (d) Points of discussion and conclusions reached in this stage of the process shall be in no way be binding upon the Applicant or the City, but should be considered as the informal, non-binding basis for proceeding to the next step.
- (6) **PD Process Step 2: Concept Plan**
- (a) The Applicant shall provide the Zoning Administrator with a draft PD Concept Plan Submittal Packet for a determination of completeness prior to placing the proposed PD on the Plan Commission agenda for Concept Plan review. This submittal packet shall contain all of the following items, prior to its acceptance by the Zoning Administrator and placement of the item on a Plan Commission agenda for Concept Plan review:

**Section 98-914 Planned Development
Procedures***through***Section 98-914 Planned Development
Procedures**

1. A location map of the subject property and its vicinity at 11" x 17", as depicted on a copy of the City of Lake Geneva Land Use Plan Map;
2. A general written description of proposed PD including:
 - a. general project themes and images;
 - b. the general mix of dwelling unit types and/or land uses;
 - c. approximate residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;
 - d. the general treatment of natural features;
 - e. the general relationship to nearby properties and public streets;
 - f. the general relationship of the project to the Master Plan;
 - g. an initial draft list of zoning standards which will not be met by the proposed PD and the location(s) in which they apply and, a complete list of zoning standards which will be more than met by the proposed PD and the location(s) in which they apply. Essentially, the purpose of this listing shall be to provide the Plan Commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility; and,
3. A written description of potentially requested exemption from the requirements of the underlying zoning district, in the following order:
 - a. Land Use Exemptions;
 - b. Density and Intensity Exemptions;
 - c. Bulk Exemptions;
 - d. Landscaping Exceptions;
 - e. Parking and Loading Requirements Exceptions;
4. A conceptual plan drawing (at 11" x 17") of general land use layout and general location of major public streets and/or private drives. Applicant may submit copies of a larger version of the plan in addition to the 11" x 17" reduction.
 - (b) Within ten working days of receiving the draft PD Concept Plan Submittal Packet, the Zoning Administrator shall determine whether the submittal is complete. Once the Zoning Administrator has received a complete packet, the proposed PD Concept Plan shall be placed on the Plan Commission agenda.
 - (c) At the Plan Commission meeting, the Applicant shall engage in an informal discussion with the Plan Commission regarding the conceptual PD. Appropriate topics for discussion may include any of the information provided in the PD Concept Plan Submittal Packet, or other items as determined by the Plan Commission.
 - (d) Points of discussion and conclusions reached in this stage of the process shall in no way be binding upon Applicant or the City, but should be considered as informal, non-binding basis for proceeding to the next step. The preferred procedure is for one or more iterations of Plan Commission review of the Concept Plan to occur prior to introduction of the formal rezoning petition which accompanies GDP application.

**Section 98-914 Planned Development
Procedures***through***Section 98-914 Planned Development
Procedures****(7) PD Process Step 3: General Development Plan (GDP)**

- (a) The Applicant shall provide the Zoning Administrator with a draft GDP Plan Submittal Packet for a determination of completeness prior to placing the proposed GDP on the Plan Commission agenda for GDP review. This submittal packet shall contain all of the following items, prior to its acceptance by the Zoning Administrator and placement of the item on a Plan Commission agenda for GDP review:
1. A location map of the subject property and its vicinity at 11" x 17", as depicted on a copy of the City of Lake Geneva Land Use Plan Map;
 2. A map of the subject property showing all lands for which the Planned Development is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Walworth County (as provided by the City of Lake Geneva). Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
 3. A general written description of proposed PD including:
 - a. general project themes and images;
 - b. the general mix of dwelling unit types and/or land uses;
 - c. approximate residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;
 - d. the general treatment of natural features;
 - e. the general relationship to nearby properties and public streets;
 - f. the general relationship of the project to the Master Plan,
 - g. a Statement of Rationale as to why PD zoning is proposed. This shall identify barriers that the Applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the Applicant suggests are available through the proposed PD zoning.
 - h. a complete list of zoning standards which will not be met by the proposed PD and the location(s) in which they apply and a complete list of zoning standards which will be more than met by the proposed PD and the location(s) in which they apply shall be identified. Essentially, the purpose of this listing shall be to provide the Plan Commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility.
 - i. A written description of potentially requested exemption from the requirements of the underlying zoning district, in the following order:
 1. Land Use Exemptions;
 2. Density and Intensity Exemptions;
 3. Bulk Exemptions;

**Section 98-914 Planned Development
Procedures***through***Section 98-914 Planned Development
Procedures**

4. Landscaping Exceptions;
 5. Parking and Loading Requirements Exceptions.
4. A General Development Plan Drawing at a minimum scale of 1"=100' (11" x 17" reduction shall also be provided by Applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:
 - a. A conceptual plan drawing (at 11" x 17") of the general land use layout and the general location of major public streets and/or private drives. The Applicant may submit copies of a larger version of the plan in addition to the 11" x 17" reduction;
 - b. location of recreational and open space areas and facilities and specifically describing those that are to be reserved or dedicated for public acquisition and use;
 - c. statistical data on minimum lot sizes in the development, the approximate areas of large development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the Plan Commission or Common Council; and
 - d. notations relating the written information provided in (7)(a)3.a.-f., above to specific areas on the GDP Drawing.
 5. A general conceptual landscaping plan for subject property, noting approximate locations of foundation, street, yard and paving, landscaping, and the compliance of development with all landscaping requirements of this Chapter (except as noted in the listing of exceptions) and the use of extra landscaping and bufferyards.
 6. A general signage plan for the project, including all project identification signs and concepts for public fixtures and signs (such as street light fixtures and/or poles or street sign faces and/or poles) which are proposed to vary from City standards or common practices.
 7. Written justification for the proposed Planned Development. (The Applicant is advised to use the requirements of the conditional use procedure to develop said written justification.)
 8. The process for review and approval of the GDP shall be identical to that for an amendment to the official zoning map per Section 98-903 of this ordinance and (if land is to be divided) to that for preliminary and final plats of subdivision per the Municipal Code. The approval of a GDP shall establish a PD/GDP overlay that is depicted as such on the official zoning map. The underlying use zoning, however, shall control development within the area of the GDP until all or portions of the GDP are approved as a PIP.
 9. a. Any approved PD/GDP for which the owner has not initiated construction activity within two years of final Common Council approval shall expire and the property subject to the PD zoning shall automatically revert to the previous zoning district. Prior to such an expiration and reversion, the applicant may request an extension of this period. Said request shall require formal approval by the Common Council and shall be based on a showing of acceptable justification (as determined by Common Council). (Ord. No. 08-11 08/11/08)

**Section 98-914 Planned Development
Procedures***through***Section 98-914 Planned Development
Procedures**

- b. All portions of an approved PD/GDP not fully developed within five years of final Common Council approval shall expire, and no additional PD-based development shall be permitted under the GDP. No later than 60 days prior to the expiration of the five year period, the Zoning Administrator shall make a recommendation to the Plan Commission regarding successor zoning for the portions of the GDP area which remain undeveloped and partially developed. This recommendation may be for time period extensions of the GDP (for up to a total of ten more years), a new standard zoning district or a combination of standard zoning districts. Recommendations for standard zoning districts shall be based on the standard zoning district(s) most comparable in land use and intensity to the approved GDP, and/or the Comprehensive Plan. The recommendation of the Zoning Administrator shall be considered by the Plan Commission following a public hearing for a Zoning Map Amendment. The Plan Commission shall then make a recommendation to the Common Council for its decision. (Ord. No. 08-11 08/11/08)
- (8) PD Process Step 4: Precise Implementation Plan (PIP)**
- (a) After the effective date of the rezoning to PD/GDP, the Applicant may file an application for a proposed Precise Implementation Plan (PIP) with the Plan Commission. This submittal packet shall contain all of the following items, prior to its acceptance by the Zoning Administrator and placement of the item on a Plan Commission agenda for PD review:
1. A location map of the subject property and its vicinity at 11" x 17", as depicted on a copy of the City of Lake Geneva Land Use Plan Map;
 2. A map of the subject property showing all lands for which the Planned Development is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Walworth County (as provided by the City of Lake Geneva). Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
 3. A general written description of proposed PIP including:
 - a. specific project themes and images;
 - b. the specific mix of dwelling unit types and/or land uses;
 - c. specific residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;
 - d. the specific treatment of natural features;
 - e. the specific relationship to nearby properties and public streets;
 - f. a Statement of Rationale as to why PD zoning is proposed. This shall identify barriers that the Applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the Applicant suggests are available through the proposed PD zoning.
 - g. a complete list of zoning standards which will not be met by the proposed PIP and the location(s) in which they apply and a complete list of zoning standards which

**Section 98-914 Planned Development
Procedures***through***Section 98-914 Planned Development
Procedures**

will be more than met by the proposed PIP and the location(s) in which they apply shall be identified. Essentially, the purpose of this listing shall be to provide the Plan Commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility.

4. A Precise Implementation Plan Drawing at a minimum scale of 1"=100' (11" x 17" reduction shall also be provided by Applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:
 - a. A PIP site plan conforming to any and all the requirements of Section 98-908(3). If the proposed Planned Development is a cluster development (per Section 98-206(1) (b) through (f)) or a group development (per Section 98-208) a proposed preliminary plat or conceptual plat shall be provided in addition to the required site plan.
 - b. location of recreational/open space areas and facilities, specifically describing those that are to be reserved or dedicated for public acquisition and use;
 - c. statistical data on minimum lot sizes in the development, the precise areas of all development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the Plan Commission or Common Council; and
 - d. notations relating the written information provided in (8)(a)3.a.-f., above to specific areas on the GDP Drawing.
5. A landscaping plan for subject property, specifying the location, species, and installed size of all trees and shrubs. This plan shall also include a chart which provides a cumulative total for each species, type and required location (foundation, yard, street, paved area or bufferyard) of all trees and shrubs.
6. A series of building elevations for the entire exterior of all buildings in the Planned Development, including detailed notes as to the materials and colors proposed.
7. A general signage plan for the project, including all project identification signs, concepts for public fixtures and signs (such as street light fixtures and/or poles or street sign faces and/or poles), and group development signage themes which are proposed to vary from City standards or common practices.
8. A general outline of the intended organizational structure for a property owners association, if any; deed restrictions and provisions for private provision of common services, if any.
9. A written description which demonstrates the full consistency of the proposed PIP with the approved GDP.
10. Any and all variations between the requirements of the applicable PD/GDP zoning district and the proposed PIP development; and,
11. The Applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development.

Section 98-915 Zoning Permit*through***Section 98-915 Zoning Permit**

12. The area included in a Precise Implementation Plan may be only a portion of the area included in a previously approved General Implementation Plan.
13. The Precise Implementation Plan (PIP) submission may include site plan and design information, allowing the Plan Commission to combine design review and review of the PIP. Design review may, at the choice of the Applicant, be deferred until a later time when specific site and building developments will be brought forth.
14. The Plan Commission or Common Council may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the PIP, as such may be relevant to review.
15. The process for review and approval of the PD shall be identical to that for conditional use permits per Section 98-905 of this ordinance and (if land is to be divided) to that for preliminary and final plats of subdivision per the Municipal Code. The approval of a PD/PIP shall formally establish the PD/PIP overlay zoning district and any such land uses and site plans included in the approved PIP's.
16. All portions of an approved PD/PIP not fully developed within five years of final Common Council approval shall expire, and no additional development shall be permitted under the PIP. No later than 60 days prior to the expiration of the five year period, the Zoning Administrator shall make a recommendation to the Plan Commission regarding successor zoning for the portions of the PIP area which remain undeveloped and partially developed. This recommendation may be for time period extensions of the PIP (for up to a total of ten more years), a new standard zoning district or a combination of standard zoning districts. Recommendations for standard zoning districts shall be based on the standard zoning district(s) most comparable in land use and intensity to the approved PIP, and/or the Comprehensive Plan. The recommendation of the Zoning Administrator shall be considered by the Plan Commission following a public hearing for a Zoning Map Amendment. The Plan Commission shall then make a recommendation to the Common Council for its decision. (Ord. No. 08-11 08-11-08)
17. The City may require the Applicant to provide surety, with the approval of the City Attorney, to ensure the development of public and private improvements.

Section 98-915 Zoning Permit

- (1) **When Required:** No structure, land, water, or air shall hereafter be used 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, state and federal regulations. Unless another Section of this Chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Subsection (3)(b), or any change in the use of an existing building or structure is initiated.
- (2) **Application:** An application for a zoning permit shall be made to the Zoning Administrator upon forms furnished by the City and shall include for the purpose of proper enforcement of these regulations the following information:
 - a. General Information:

Section 98-915 Zoning Permit*through***Section 98-915 Zoning Permit**

1. Name, address and telephone number of applicant, property owner, architect, engineer, and contractor, where applicable.
 2. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 3. Additional information as may be required by the Plan Commission or Zoning Administrator.
 4. Fee receipt from the City Treasurer in an amount specified in sub. (2) of this section.
- b. Plat of Survey. Plat of survey prepared by a land surveyor registered in Wisconsin showing the location, boundaries, dimensions, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off street parking, loading areas and driveways; existing highway access restrictions; high water, channel floodway and floodplain boundaries; and existing and proposed street, side and rear yards. In addition, the plat of survey shall show type, slope and boundaries of soils shown on the operations soil survey maps prepared by the USDA Soil Conservation Service for the Southeastern Wisconsin Regional Planning Commission.
- c. Site Development Plan. The site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:
1. Dimensions and area of the lot.
 2. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways.
 3. Description of any existing or proposed on-site sewage systems or private water supply systems.
 4. Location of the ordinary high watermark of any abutting navigable waterways.
 5. Boundaries of all wetlands.
 6. Existing and proposed topographic and drainage features and vegetative cover.
 7. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps.
 8. Location of existing or future access roads.
 9. Specifications and dimensions for areas of proposed wetland alteration.
- d. Fees.
- a. All applicants shall pay a zoning permit fee as determined by the Common Council from time to time.
 - b. Zoning permit fees do not include and are in addition to building permit fees established in the Municipal Code.
 - c. A double fee may be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the

Section 98-931 Purpose of Administrative Regulations*through***Section 98-932 Zoning Administrator**

applicant from full compliance with this chapter nor from prosecution for violation of this chapter.

- (3) **Determination and Expiration:** A zoning permit shall be granted or denied by the Zoning Administrator in writing within 30 days of application and the applicant shall post such permit in a conspicuous place at the site. The permit shall expire within 4 months unless work equal to 10% of the dollar amount of the permits has been completed or within 18 months after the issuance of the permit if the structure for which a permit issued is not 75% completed as measured by the dollar amount of the permit. The applicant shall reapply for a zoning permit before recommencing work on the structure. Any permit issued in conflict with the provisions of this chapter shall be null and void.

Section 98-931 Purpose of Administrative Regulations

The purpose of this portion of the Article is to establish the administrative and enforcement framework for the application of this Chapter.

Section 98-932 Zoning Administrator

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

Section 98-933 Plan Commission*through***Section 98-934 Zoning Board of Appeals**

resident, agent, or occupant of the premises, and report uncorrected violations to the City Attorney in a manner specified by him.

- (h) Institute, in the name of the City of Lake Geneva, any appropriate actions or proceedings against a violator of this Chapter, as provided by law.
- (i) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
- (j) Where useful, the Zoning Administrator, or his agent, may set marks on bridges or buildings or other markers which show the depth of the regional flood; or may set marks delineating the boundaries of wetlands.
- (k) Request assistance and cooperation from the City Police Department and City Attorney as deemed necessary.
- (l) Make available to the public, to the fullest extent possible, all reports and documents concerning the City's comprehensive plan and ordinances. In addition, information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely distributed. The Common Council may set fees necessary to recover the cost of providing information to the public.
- (m) The Zoning Administrator or other City staff may designate Deputy Zoning Administrators.
- (n) Make interpretations regarding the provisions of this Chapter per Section 98-911.
- (o) Grant minor variations from the dimensional (setback, height, and area requirements of this Chapter; up to a maximum variation of 10% for setbacks and height limitations; and up to a maximum variation of 10% or 1,000 square feet for area requirements (whichever is less); so long as the spirit and intent of the performance standards are preserved.

Section 98-933 Plan Commission

The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the City to the Common Council, other public officials and other interested organizations and citizens. The Commission, its members and employees, in the performance of its functions, may enter upon any land and make examinations and surveys.

In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Code, its functions are primarily recommendatory to the Common Council pursuant to guidelines set forth in this Code as to various matters, and, always, being mindful of the intent and purposes of this Code. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion and of its own volition, conduct its own public hearing.

Section 98-934 Zoning Board of Appeals

The Zoning Board of Appeals shall have the power and duty to review and determine all matters relating to requested variances from the provisions of this Chapter (see Section 98-910); or appeals regarding an interpretation of the Zoning Administrator of the provisions of this Chapter (see Section 98-911 and 98-912).

- (1) **Establishment and Membership:** A Zoning Board of Appeals is hereby established. The Zoning Board of Appeals shall consist of five (5) members appointed by the Mayor, subject to

Section 98-934 Zoning Board of Appeals*through***Section 98-934 Zoning Board of Appeals**

confirmation by the Common Council, for three (3) years, except that of those first appointed, one shall serve for one year; two for two years. The members shall serve without compensation and shall be removable by the Mayor for cause upon written charges and after public hearing. The Mayor shall designate one of the members chairman. The Mayor shall appoint subject to confirmation of the Council for staggered terms of three (3) years, two alternate members of such board, in addition to the five members above provided for. Annually, the Mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the board refuses or declines to vote, is disqualified because of interest, or when a member is absent. The second alternate shall so act when the first alternate so refuses or declines to vote, is disqualified because of interest or is absent or when more than one member so refuses or declines, is disqualified, or is absent. Other provisions herein appearing, with regard to removal and filling of vacancies, shall apply to such alternates. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. Appointments shall be made at the organizational meeting the Third Tuesday in April. Terms of office shall commence the first day of May. The City Clerk shall serve as Secretary of the Board. The Board of Appeals may employ other employees.

- (2) **Organization:** The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman, and at such other times as the Board of Appeals may determine. The Chairman, or in his absence an elected Acting Chairman, may administer oaths and compel the attendance of witnesses. All meeting shall be open to the public.

The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each questions, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals, which is the City Clerk's office, and shall be a public record.

(3) **Powers**

(a) The Board of Appeals shall have the following powers:

1. To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
2. To hear and decide special exceptions to the terms of this Code upon which the Board of Appeals is required to pass.
3. To authorize, upon appeal in specific cases, such variance from the terms of this Code as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
4. Permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this Code, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.

(b) In exercising the above listed powers, the Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought

Section 98-934 Zoning Board of Appeals*through***Section 98-934 Zoning Board of Appeals**

to be made in the premises and to that end shall have all the powers of the Zoning Administrator or other administrative officer from whom the appeal is taken. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this Code.

(c) In addition to the foregoing powers, the Board of Appeals shall have the following specific powers:

1. To interpret the provisions of this Code in such a way as to carry out the intent and purpose of the plan, as shown on the Zoning Map accompanying and made a part of this Code, where the street layout actually on the ground varies from the street layout on the aforesaid map.
2. The Board of Appeals shall have the power to call on any other city department for assistance in the performance of its duties and it shall be the duty of such other departments to render such assistance as may be reasonably required.

(d) Except as specifically provided, no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such districts.

(4) **Appeals:** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Lake Geneva affected by any decision of the administrative officers. Such appeal shall be taken within thirty days, as provided by the rules of the Board of Appeals, by filing with the officer(s) from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Common Council. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest, and shall decide to same within a reasonable time. (Ord. No. 00-15 12/11/00)

(5) **Notice of Hearing:** The Board of Appeals shall fix a reasonable time and place for the hearing, within forty-five days of filing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) five days prior to the hearing to the fee owners of record of all land within 300 feet of any part of the subject building or premises involved in the appeal. (Ord. No. 00-15 12/11/00)

(6) **Hearings:** Hearings on appeals shall be public and shall be conducted according to the rules of procedure adopted by the Board. At the hearing, the appellant or applicant may appear in person, by agent or by attorney. Decisions of the Board following public hearing may be made either in public or closed session as the Board shall determine.

(7) **Findings**

(a) Findings of fact and reasons for all actions taken shall be reduced by the Board to writing in the minutes of the proceedings.

(b) The Board is authorized to grant a variance from the Zoning Ordinance which is not contrary to the public interest and if the following findings are found to be in the affirmative:

Section 98-934 Zoning Board of Appeals*through***Section 98-934 Zoning Board of Appeals**

1. There exists a unique hardship, which is caused by special condition of the property and is not self created by the Applicant.
 2. A literal enforcement of the provisions of the Ordinance will result in practical difficulty or undue hardship.
 3. Granting of the variance is within the spirit of the Zoning Code.
 4. The Public's health, safety and welfare are secured.
 5. Granting of the variance will result in justice being served. (Ord. No. 04-33 8/23/04)
- (c) Further to be considered by the Board in case of appeal based on variance, in arriving at its reasons and grounds for the above required findings, are the following:
1. **Preservation of Intent:** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
 2. **Exceptional Circumstances:** There may be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general recurrent nature as to suggest that the Zoning Code should be changed.
 3. **Economic Hardship and Self-Imposed Hardship Not Grounds for Variance:** No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 4. **Preservation of Property Rights:** Such variance may be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 5. **Absence of Detriment:** Such variance should not create substantial detriment to adjacent property and shall not materially impair or be contrary to the purpose and spirit of this Code or the public interest.
- (d) Additional Requirements in Floodland Districts. No variance shall be granted when it is found:
1. Filling and development contrary to the purpose and intent of the Floodway District (FW) and the Floodplain District (FP) would result.
 2. A change in the boundaries of the Floodway District (FW), Floodplain District (FP), or the Floodfringe District (FF) would result.
 3. A lower degree of flood protection than a point two (2) feet above the 100-year recurrence interval flood for the particular area would result.
 4. Any action contrary to the provisions of Subchapter NR-116 of the Wisconsin Administrative Code would result.

(8) Wetland and Floodland Mapping Disputes

- (a) **Wetland Disputes:** See Section 98-504(13).
- (b) **Floodland Disputes:** Whenever the Board of Appeals is asked to interpret a floodland boundary where an apparent discrepancy exists between the federal Flood Insurance

Section 98-935 Fees*through***Section 98-935 Fees**

Study and the actual field conditions, the following procedure shall be used. The floodland boundary shall be determined by use of the flood profiles contained in an engineering study, or where such information is not available to the Board of Appeals, the person contesting the location of the district boundary shall be given the opportunity to present his own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the Board of Appeals shall advise the City Plan Commission of its findings and the Plan Commission shall proceed to petition the Common Council for a map amendment.

- (9) **Decision:** The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit by regular mail to the address on the application a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, and City Plan Commission.
- (a) Conditions may be placed upon any Zoning Permit ordered or authorized by this Board.
- (b) Variances, substitutions, or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.
- (c) Applicants receiving variances in floodlands shall be notified, in writing, by the Board of Appeals that increased flood insurance premiums and risk to life or property may result from the granting of the variance. The Board shall keep a record of the notification in its files.
- (10) **Notice to the DNR:** The Zoning Board of Appeals shall transmit a copy of each application for a variance to conservancy regulations in the lakeshore portion of the shoreland-wetland overlay district or to the floodland regulations in a FW, FP, or FF floodland district, and a copy of all shoreland-wetland and floodland appeals, to the Wisconsin Department of Natural Resources (DNR) for review and comment at least 10 days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to variances to shoreland-wetland regulations or to floodland regulations, and a copy of all decisions to shoreland-wetland and floodland appeals, shall be transmitted to the DNR within 10 days of the date of such decision.
- (11) **Review by Court of Record:** Any persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the Board.

Section 98-935 Fees

- (1) **Fees for Procedures or Permits Requested by a Private Party:** The fees for the procedures and permits established by this Chapter shall be established by resolution of the Common Council of the City of Lake Geneva
- (2) **Fees for Procedures Requested by the City of Lake Geneva:** There shall be no fee in the case of applications filed in the public interest by the Common Council or the Plan Commission, other agency, or official of the City of Lake Geneva.
- (3) **Payment of Fees:** Fees shall be payable at the time applications are filed with the appropriate officer of the City (per the requirements of this Chapter), and are not refundable.
- (4) **Professional Consultant Review Services:** The City may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the City's review of a proposal coming

Section 98-936 Violations and Penalties*through***Section 98-936 Violations and Penalties**

before the Plan Commission. The City may apply the charges for these services to the Petitioner. The City will require the Petitioner to sign a professional consultant review services form. The City may delay acceptance of the application or petition as complete, or may delay final approval of the proposal, until such fees are paid by the Petitioner. The submittal of a development proposal application or petition by a Petitioner shall be construed as an agreement to pay for such professional review services applicable to the proposal. Review fees which are applied to a Petitioner, but which are not paid, may be assigned by the City as a special assessment to the subject property.

Section 98-936 Violations and Penalties

- (1) **Violation of this Chapter:** It shall be unlawful to construct or use any land, engage in any development activity (including disruption of protected vegetation), or construct or use any structure, land or water in violation of any of the provisions of this Chapter, or otherwise neglect, refuse or fail to comply with this Chapter's requirements. Any person who violates or fails to comply with any of the provisions of this Chapter shall, upon conviction thereof, be subject to the penalties set forth in Subsection (2), below, and in addition, shall pay all costs and expenses, including actual reasonable attorney and other fees involved in the case. Each day a violation exists or continues shall constitute a separate offense.
- (2) **Penalties:** Any person, firm, or corporation who fails to comply with the provisions of this Code or any order of the Zoning Administrator shall be subject to the penalty provisions of the City of Lake Geneva Municipal Code of Ordinances.
- (3) **City Promulgated Correction of Violation:** In addition to any other penalty imposed by this Article for a violation of the provisions of this Chapter, the City reserves and maintains the continued right to abate violations of this Chapter.
 - (a) **Hazardous Condition Caused by Violation of this Chapter:** If the Zoning Administrator determines that a violation of this Chapter exists, and further determines that the nature of such violation poses a great and immediate danger to the public health, safety, peace, morals or decency, the Zoning Administrator shall cause the violation to be abated. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred per Subsection (c), below. The Zoning Administrator is hereby authorized to abate a violation of this Chapter.
 - (b) **Non-Hazardous Condition Caused by Violation of this Chapter:** If the Zoning Administrator determines that a violation of this Chapter exists, and further determines that the nature of such violation is not such as to pose great and immediate danger to the public health, safety, peace, morals or decency, the Zoning Administrator shall serve written notice by Registered Mail on the current owner of the property (as indicated by current City of Lake Geneva tax records) on which said violation is occurring to remove said violation within ten working days. If such violation is not removed within such ten working days, the Zoning Administrator shall cause the violation to be abated per Subsection (a), above. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred per Subsection (c), below.
 - (c) **Cost of Abatement:** In addition to any other penalty imposed by this Article for a violation of the provisions of this Chapter, the cost of abating a violation of this Chapter per Subsections (a) and/or (b), above, shall be collected as a debt from the owner of the property on which said violation has occurred. An account of the expenses incurred by the City to abate the violation shall be kept and such expenses shall be charged to and paid by the property owner. Notice of the bill for abatement of the violation shall be mailed to

Section 98-936 Violations and Penalties *through* **Section 98-936 Violations and Penalties**

the last known address of said property owner by Registered Mail, and shall be payable within 30 calendar days from the receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the City Clerk shall enter such charges onto the tax roll as a special tax as provided by State Statute 66.615(5).