CODE OF ORDINANCES

CITY OF MONTREAL, WISCONSIN

ORDAINED AND PUBLISHED

BY AUTHORITY OF THE

COMMON COUNCIL

1989

Community Code Service
Alan J. Harvey, Attorney
3900 Vinburn Road
DeForest, WI 53532
(608) 846-5897

CODE OF ORDINANCES OF THE

CITY OF MONTREAL

PREFACE

Democracy is a government of laws. Good democracy requires not only good laws, but laws which are readily available in written form to all who are subject to them, to the public officials and police officers who must administer them and to the judges and attorneys who must interpret and apply them. It is for this reason that the Common Council of the City of Montreal has adopted this Code of Ordinances. This Code represents the contribution of the Common Council to the democratic and efficient administration of the government and affairs of the City of Montreal.

CITY OFFICERS

Mayor	James E. Baron
Aldermen	John Nemetz Victor Zanella Charles Morzenti, Jr. Robert Morzenti
Clerk-Treasurer	Louis Valle
Utility Clerk-Librarian	June Marshall
City Attorney	David Morzenti

FORWARD

We are pleased to provide this new Code of Ordinances for the City of Montreal, Wisconsin. This codification provides a complete revision and codification of all Ordinances of a general and permanent nature of the City. All amended Ordinances are brought up to date. The Code also includes certain new Ordinances that were prepared to fill gaps not covered by existing Ordinances.

The Code also includes several features that will facilitate its use. The various chapters and articles follow one another in a natural, logical order. The table of contents, with a complete outline of this order, will often provide sufficient reference points for the reader. In addition, the reader may consult the alphabetical index at the end of the volume. At the beginning of each chapter there is a section-by-section analysis of the articles within the chapter.

Nontextual provisions such as severability clauses, repeals and enacting clauses are omitted from the text but are covered by Title 1 of the Code. In most instances, references to "this ordinance" in the text of an ordinance have been changed to "this chapter" or "this article" as deemed appropriate. Various editorial notes, state law references and amendment notes have been included throughout the Code to clarify its provisions.

We gratefully acknowledge the cooperation and assistance rendered by the City officials in the preparation of this Code.

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ADOPTING ORDINANCE

An Ordinance Adopting and Enacting a New Code of Ordinances for the City of Montreal, Wisconsin; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein, Except as Herein Expressly Provided; Providing for the Manner of Amending Such Code of Ordinances; Providing a Penalty for the Violation Thereof; and Providing When This Ordinance Shall Become Effective.

The Common Council of the City of Montreal, Wisconsin, Do Ordain as Follows:

SECTION 1

The Code of Ordinances is hereby adopted and enacted as the "Code of Ordinances of the City of Montreal, Wisconsin," and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent Ordinances of the City passed on or before _____ to the extent provided in Section 2 hereof.

SECTION 2

All provisions of the Code shall be in full force and effect from and after _____, and all Ordinances of a general and permanent nature of the City of Montreal, enacted on final passage on or before _____, and not included in such Code or recognized and continued in force by reference therein are hereby repealed from the Code after _____, except as hereinafter provided. No resolution of the City, not specifically mentioned, is hereby repealed.

SECTION 3

(a) The repeal provided for in Section 2 hereof shall not affect the following, except that some of the following provisions existing at the time of adoption may be amended by this recodification:
   (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;
   (2) Any ordinance or resolution promising or guaranteeing the payment of money for the City, or any contract or obligations assumed by the City;
   (3) The administrative Ordinances or resolutions of the City not in conflict or inconsistent with the provisions of the Code;
   (4) Any appropriation ordinance or resolution;
   (5) Any right or franchise granted by the Common Council to any person, firm or corporation;
   (6) Any ordinance or resolution dedicating, naming, establishing, locating relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the City;
   (7) Any ordinance or resolution establishing the prescribing of street grades of any streets in the City;
   (8) Any ordinance or resolution providing for local improvements or assessing taxes or special assessments therefor;
   (9) Any ordinance or resolution dedicating or accepting any plat or subdivision in the City;

(10) Any ordinance annexing property to the City;
(11) Any ordinance or resolution regulating the erection, alteration, repair, demolition, moving or removal of buildings or other structures, except that these ordinances have been amended as part of this recodification;
(12) Zoning ordinances; one- and two-family dwelling building code; and any other building codes except that these ordinances have been amended as part of this recodification.
(13) Charter ordinances.
(14) The issuance of corporate bonds and notes of the City of whatever name or description.
(15) Water, sewer and electric rates, rules and regulations and sewer and water main construction.

(b) Nor shall the repeal be construed to revive any ordinance or part of an ordinance that has been repealed by a subsequent ordinance which is repealed by this ordinance.

SECTION 4

A copy of the Code shall be kept on file in the office of the City Clerk-Treasurer, preserved in loose-leaf form, or in such other form as the City Clerk-Treasurer may consider most expedient. It shall be the express duty of the City Clerk-Treasurer or someone authorized by the Clerk-Treasurer, to insert in their designated places all amendments, ordinances or resolutions which indicate the intention of the Common Council to make the same a part of the Code when the same have been printed or reprinted in page form, and to extract from the Code all provisions which may be repealed from time to time by the Common Council. This copy of the Code shall be available for all persons desiring to examine it.

SECTION 5

All ordinances or parts in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 6

This ordinance shall become effective on _____, 19__.

Passed, Approved and Adopted by the Common Council on This ____ Day Of _____ _____, 19__, Pursuant to Section 66.035, Wis. Stats.

Attest:

_____
Mayor

_____
City Clerk-Treasurer

OPEN MEETING LAW GUIDE

General Requirements

1. Wisconsin's Open Meeting Law provides that all meetings of governmental bodies shall be open to all citizens at all times. Sec. 19.81(2), Wis. Stats.

2. Meetings of local governing bodies or their subunits must be held in places reasonably accessible to the public.

3. Meetings are open to all members of the public unless specifically provided otherwise by law.

4. When members of a governmental body gather in sufficient numbers to compose a quorum, that meeting is presumed to be convened for the purpose of conducting official business. Such a meeting is in violation of The Open Meeting Law if proper notice was not given and the meeting is not open to the public. Sec. 19.82(2), Wis. Stats.

5. The Open Meeting Law also appliès when members of a governing body, or committee thereof, engage in business of that body and when the number of members present is potentially sufficient to determine the governing body's course of action regarding the proposal discussed [State vs. Showers, No. 85-471 (June 15, 1987)].

Public Notice

1. WHO MUST RECEIVE NOTICE. For any meeting, the presiding officer, or his/her designee, shall give notice to the official newspaper and to any other members of the news medial who have filed a written request to receive such notices, or if neither exists, in a manner likely to give notice to the public. Notice must also be given as required by any other state statutes.

2. CONSTRUCTION OF NOTICE. The notice for the meeting shall include:

   a. The time, date and place of the meeting, and

   b. The subject matter of the meeting, including subject matter to be considered in closed session.

   The governmental body may discuss and, if urgent, act upon matters which were not specifically referred to in the agenda where the agenda contains a general item, such as "miscellaneous business." Where the presiding officer has specific knowledge that matters may come before the body, they should be included on the agenda.

3. TIME FOR NOTICE. Notice must be given at least twenty-four (24) hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given. In no case may notice be provided less than two (2) hours in advance of the meeting. Sec. 19.84(3), Wis. Stats.

4. COMMITTEES AND SUBUNITS EXEMPTION TO NOTICE REQUIREMENT. A legally constituted subunit of a parent government body may conduct a meeting during the recess of the governing body's meeting or immediately after the lawful meeting to act or deliberate upon a matter which was the subject of that meeting. For this exemption to apply, the presiding officer must publicly announce the time, place and subject matter of the subunit's meeting in advance at the meeting of the governing body.

Procedure For Closed Sessions

1. Required notice must be given if the presiding officer or his/her designee knows that a closed session is being contemplated. Notice is required regardless of whether a majority of members will or will not support going into closed session at the meeting. Sec. 19.84(2), Wis. Stats.

2. After first meeting in open session, with proper notice, a motion made and recorded, supported by majority vote, is required to close, with the vote of each member recorded in the minutes. Sec. 19.85(1), Wis. Stats.

3. If the motion to go into closed session is carried, the presiding officer shall announce to those present at the meeting (to be recorded in the minutes) the nature of the business to be considered in the closed session and the specific exemption(s) relied upon in Sec. 19.85, Wis. Stats., under which the closed session is permitted.

4. Only matters contained in the presiding officer's announcement of the closed session may be considered during the closed session.

5. An open session, with adequate notice, must precede a closed session, even where it was decided at a prior open session to go into a closed session at a subsequent meeting.

6. A governmental body may vote to go into closed session at a properly convened open session, for a permitted purpose, where specific notice of intent to consider going into closed session was not included on the agenda at the time notice of the open session was given. However, such procedure requires that the presiding officer or his/her designee did not contemplate or have knowledge that any of the other members contemplated a closed session at the time notice of the agenda was given.

Specific Exemptions Allowing Closed Sessions

1. Sec. 19.85(1)(a), Wis. Stats., creates an exemption for governmental bodies deliberating after quasi-judicial trials or hearings. However, boards of review cannot rely on this exemption, for Sec. 70.47(2m), Wis. Stats., requires all board of review meetings to be held in open session.

2. Sec. 19.85(1)(b), Wis. Stats., is a limited exception to the Open Meeting Law allowing the use of a closed session when a governmental body is considering the demotion, dismissal, licensing, discipline or tenure of a public employee or a person licensed by a board or commission. This exception permits preliminary discussion and investigation without the necessity of providing actual notice to

the individual involved. However, before any evidentiary hearing can be conducted or formal action taken, notice must be given to the person involved so that he or she can exercise his or her right to request an open session for those purposes.

3. Sec. 19.85(1)(c), Wis. Stats., sanctions the use of closed sessions where governmental bodies are considering employment, promotion, compensation or performance evaluation of any public employee. Governmental bodies should exercise caution when considering performance to avoid discussing matters that are covered by Sec. 19.85(1)(b), Wis. Stats.

4. Sec. 19.85(1)(c), Wis. Stats., permits the use of closed sessions when applications for parole or probation are being considered, or when crime detection or prevention strategy is to be discussed.

5. Sec. 19.85(1)(e), Wis. Stats., allows closed sessions for the purpose of deliberating or negotiating the purchase of public properties, the investing of public funds, or the conducting of other specified public business, as long as competitive or bargaining reasons require a closed session. Under this exception, a governmental body could meet in closed session for the purpose of forming negotiation strategies, although the body must give notice that an open session will be held for the purpose of taking a vote to convene in closed session for the purpose of discussing labor negotiation strategies.

6. Discussions by governmental bodies considering the financial, medical, social or personal histories or disciplinary data of specific persons which, if conducted in public, would have a "substantial adverse effect upon the reputation of any person referred to" may be held in closed session under Sec. 19.85(1)(f), Wis. Stats. However, this exemption is unavailable where Sec. 19.85(1)(b), Wis. Stats., is applicable.

7. Sec. 19.85(1)(g), Wis. Stats., allows a governmental body to confer with its legal counsel in closed session for the purpose of obtaining oral or written advice concerning strategy to be adopted by the body with respect to present and prospective litigation directly involving the governmental body.

8. Closed sessions may be utilized by governmental bodies to consider requests for confidential written advice from ethics boards under Sec. 19.85(1)(h), Wis. Stats.

Limitations on Closed Sessions

1. Sec. 19.85(2), Wis. Stats., makes it impermissible for a governmental body to reconvene in open session within twelve (12) hours after a closed session, unless public notice of the subsequent open session was given at the same time and in the same manner as was required for the original open session.

2. Final ratification or approval of a collective bargaining agreement is required to be in open session under Sec. 19.85(3), Wis. Stats. However, a governmental body can vote to preliminarily approve bargaining proposals in closed session, in order to reach a consensus, as long as final ratification occurs in open session.

Ballots, Votes and Records

1. Unless provided elsewhere by statute, no secret ballot may be utilized by a governmental body to determine any election or decision, except the election of the officers of such body. This narrow exception does not permit the use of secret ballots to elect members of committees, officers of the governmental units such as department heads, or fill vacancies on the body itself.

2. Any member may require the ascertainment and recording of each vote.

3. Records of motions and roll-call votes must be preserved and open for public inspection.

Use of Equipment in Meetings

1. A governmental unit must make a reasonable effort to accommodate the media's equipment.

2. Any person may record, film or photograph a meeting in open session, provided that the use of this equipment does not interfere with the conduct of the meeting(s).

3. A member of a governmental body does not have the right to tape record a closed session of the Common Council.

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(1) Cross references (when needed) are always located at the beginning of entries. Have you overlooked any?

(2) Frequently initial questions are too general. Reformulating a more specific question may help.

(3) Information on officials can be found two ways. The entry for an official's name contains general duties as well as conditions of his office, such as compensation and tenure. Duties assigned to him by ordinances on specific subjects will be found under those subjects.

(4) Definitions can be located under the "DEFINITIONS" main heading or in specific subject areas through the subheading "Definitions of terms."

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CODE OF GENERAL ORDINANCES

Key to Section Numbering

Chapter

Title Section

1-1-1

TITLE 1

General Provisions for Use of Code of Ordinances

Chapter 1 Use and Construction of Code of Ordinances
Chapter 2 Enforcement of Ordinances; Issuance of Citations

CHAPTER 1

Use and Construction of Code of Ordinances

1-1-1 Title of Code; Citation
1-1-2 Principles of Construction
1-1-3 Conflict of Provisions
1-1-4 Separability of Provisions
1-1-5 Effective Date of Ordinances
1-1-6 Repeal of General Ordinances
1-1-7 General Penalty
1-1-8 Clerk-Treasurer to Maintain Copies of Documents Incorporated by Reference

SEC. 1-1-1 TITLE OF CODE; CITATION.

These collected Ordinances shall be known and referred to as the "Code of Ordinances, City of Montreal, Wisconsin." References to the Code of Ordinances, City of Montreal, Wisconsin, shall be cited as follows: "Sec. 2-1-1, Code of Ordinances, City of Montreal, Wisconsin."

SEC. 1-1-2 PRINCIPLES OF CONSTRUCTION.

The following rules or meanings shall be applied in the construction and interpretation of ordinances codified in this Code of Ordinances unless such application would be clearly inconsistent with the plain meaning or intent of the ordinances:

(a) **Acts by Agents.** When an ordinance requires an act be done by a person which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.

(b) **City.** "City" shall refer to the City of Montreal, Iron County, Wisconsin.

(c) **Code and Code of Ordinances.** The words "Codes," "Municipal Code" and "Code of Ordinances" when used in any section of this Code shall refer to this Code of Ordinances of the City of Montreal unless the context of the section clearly indicates otherwise.

(d) **Computation of Time.** In computing any period of time prescribed or allowed by these Ordinances, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven (7) days, Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this Section,

"legal holiday" means any statewide legal holiday specified by state law and any other City holiday designated by the Common Council.

(e) **Fine.** The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.

(f) **Gender.** Every word in these Ordinances referring to the masculine gender shall also be construed to apply to females, and vice versa; the masculine gender is used solely in the interest of brevity.

(g) **General Rule.** All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the Ordinances.

(h) **Joint Authority.** All words purporting to give a joint authority to three (3) or more City officers or employees shall be construed as giving such authority to a majority of such officers of other persons.

(i) **Person.** The word "person" shall mean any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.

(j) **Repeal.** When any ordinance having the effect of repealing a prior ordinance is itself repealed, such repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.

(k) **Singular and Plural.** Every word in these Ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these Ordinances referred to a plural number shall also be construed to apply to one (1) person or thing.

(l) **Tense.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.

(m) **Wisconsin Statutes.** The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these Ordinances, the Wisconsin Statutes for the year 1987-88, as amended.

(n) **Wisconsin Administrative Code.** The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Adm. Code" shall mean the Wisconsin Administrative Code as of the adoption of this Code, as amended or renumbered from time to time.

State Law Reference: Legal holidays, Sec. 256.17, Wis. Stats.

SEC. 1-1-3 CONFLICT OF PROVISIONS.

(a) If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.

(b) If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

SEC. 1-1-4 SEPARABILITY OF PROVISIONS.

If any provision of this Code of Ordinances is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provisions of these Ordinances.

SEC. 1-1-5 EFFECTIVE DATE OF ORDINANCES.

(a) **Code.** The Code of Ordinances, City of Montreal, Wisconsin, shall take effect from and after passage and publication as provided by state law.

(b) **Subsequent Ordinances.** All Ordinances passed by the Common Council subsequent to the adoption of the Code of Ordinances, except when otherwise specifically provided, shall take effect from and after their publication.

State Law Reference: Municipal Code, Sec. 66.035, Wis. Stats.

SEC. 1-1-6 REPEAL OF GENERAL ORDINANCES.

(a) **Ordinances Repealed.** All general Ordinances heretofore adopted by the Common Council are hereby repealed. This shall not include any Ordinances or parts of Ordinances or resolutions relating to the following subjects and not conflicting with the provisions of this Code, except that some of the following provisions may be amended by this Code of Ordinances:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;
(2) Any ordinance or resolution promising or guaranteeing the payment of money for the City, or any contract or obligations assumed by the City;
(3) The administrative Ordinances or resolutions of the City not in conflict or inconsistent with the provisions of the Code;
(4) Any appropriation ordinance or resolution;
(5) Any right or franchise granted by the Common Council to any person, firm or corporation;
(6) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the City;
(7) Any ordinance or resolution establishing or prescribing the street grades of any streets in the City;
(8) Any ordinance or resolution providing for local improvements or assessing taxes or special assessments therefor;
(9) Any ordinance or resolution dedicating or accepting any plat or subdivision in the City;
(10) Any ordinance annexing property to the City;
(11) Any ordinance or resolution regulating the erection, alteration, repair, maintenance, demolition, moving or removal of buildings or other structures;
(12) Zoning ordinances; dwelling building code; and other building code ordinances.
(13) Charter ordinances.
(14) The issuance of corporate bonds and notes of the City of whatever name or description.
(15) Water and sewer rates, rules and regulations and sewer and water main construction.

(b) **Effect of Repeals.** The repeal or amendment of any provision of this Code or of any other ordinance or resolution of the Common Council shall not:

(1) Affect any rights, privileges, obligations or liabilities which were acquired or incurred or which had accrued under the repealed or amended provision, unless the City has expressly reserved the right to revoke such right, privilege, obligation or liability.

(2) Affect any offense, penalty or forfeiture, or prosecution for any offense, or levy of any penalty or forfeiture which has arisen prior to the repeal or amendment of the relevant provision of any ordinance or resolution. The preceding sentence shall not preclude the application of a lesser penalty or forfeiture if the new amending or repealing provision contains such a lesser penalty or forfeiture. The procedure for prosecution of any violations of Ordinances repealed or amended shall be conducted according to the procedure set forth in the new amending or repealing provision or other procedure currently in effect.

SEC. 1-1-7 GENERAL PENALTY.

(a) **General Penalty.** Except where a penalty is provided elsewhere in this Code, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:
   (1) First Offense -- Penalty. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than Twenty-five Dollars ($25.00) nor more than Five Hundred Dollars ($500.00), together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding six (6) months.
   (2) Second and Subsequent Offenses -- Penalty. Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00) for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.

(b) **Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the City from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(c) **Other Remedies.**
   (1) The City shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.
   (2) Execution against defendant's property. Whenever any person fails to pay a forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the City, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs.

SEC. 1-1-8 CLERK-TREASURER TO MAINTAIN COPIES OF DOCUMENTS INCORPORATED BY REFERENCE.

Whenever any standard code, rule, regulation, statute or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the City Clerk-Treasurer shall maintain in his office a copy of any such material as adopted and as amended from time to time. Materials on file at the City Clerk-Treasurer's office shall be considered public records open to

reasonable examination by any person during the office hours of the City Clerk-Treasurer subject to such restrictions on examination as the Clerk-Treasurer imposes for the preservation of the material.

CHAPTER 2

Enforcement of Ordinances; Issuance of Citations

1-2-1 Method of Enforcement
1-2-2 Information Contained in Citation
1-2-3 Form of Citation
1-2-4 Schedule of Deposits
1-2-5 Issuance of Citation
1-2-6 Procedure
1-2-7 Nonexclusivity

SEC. 1-2-1 METHOD OF ENFORCEMENT.

The City of Montreal hereby elects to use the citation method of enforcement of ordinances. All City law enforcement officers and other City personnel charged with the responsibility of enforcing the provisions of this Code of Ordinances are hereby authorized pursuant to Sec. 66.119(1)(a), Wis. Stats., to issue citations for violations of this Code of Ordinances, including ordinances for which a statutory counterpart exists.

SEC. 1-2-2 INFORMATION CONTAINED IN CITATION.

The citation shall contain the following:

(a) The name and address of the alleged violator.
(b) Factual allegations describing the alleged violation.
(c) The time and place of the offense.
(d) The section of the ordinance violated.
(e) A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
(f) The time at which the alleged violator may appear in court.
(g) A statement which in essence informs the alleged violator:
    (1) That a cash deposit based on the schedule established by this Chapter may be made which shall be delivered or mailed to the Clerk of Circuit Court prior to the time of the scheduled court appearance.
    (2) That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.
    (3) That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
    (4) That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.
(h) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under Subsection (a) above has been read. Such statement shall be sent or brought with the cash deposit.
(i) Such other information as the City deems necessary.

SEC. 1-2-3 FORM OF CITATION.

The form of the citation to be used by the City is on file in the City Clerk-Treasurer's office and is adopted by reference as though fully set forth herein.

SEC. 1-2-4 SCHEDULE OF DEPOSITS.

(a) The schedule of cash deposits shall be established for use with citations issued under this Chapter by the Common Council according to the penalty provision of this Code.
(b) Deposits shall be made in cash, money order or certified check to the Clerk of Circuit Court who shall provide a receipt therefor.

SEC. 1-2-5 ISSUANCE OF CITATION.

(a) **Law Enforcement Officer.** Any law enforcement officer may issue citations authorized under this Chapter.
(b) **City Officials.** The following City officials may issue citations with respect to those specified ordinances which are directly related to their official responsibilities:
    (1) Any law enforcement officer;
    (2) Fire Chief or Fire Inspector;
    (3) School Crossing Guards.

SEC. 1-2-6 PROCEDURE.

Section 66.119(3), Wis. Stats., relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

SEC. 1-2-7 NONEXCLUSIVITY.

(a) **Other Ordinance.** Adoption of this Chapter does not preclude the Common Council from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
(b) **Other Remedies.** The issuance of a citation hereunder shall not preclude the City or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

TITLE 2

Government and Administration

Chapter 1 City Government; Elections
Chapter 2 Mayor; Common Council
Chapter 3 Municipal Officers and Employees
Chapter 4 Boards, Commissions and Committees
Chapter 5 Ethical Standards

CHAPTER 1

City Government; Elections

2-1-1 City Government
2-1-2 Official Newspaper
2-1-3 Appointment of Election Officials
2-1-4 Elections
2-1-5 Non-Partisan Primary for City Offices

SEC. 2-1-1 CITY GOVERNMENT.

(a) **Mayor-Council Government.** The City of Montreal is a body corporate and politic with the powers of a municipality at common law and governed by the provisions of Chapters 62 and 66 of the Wisconsin Statutes, laws amending those chapters, other acts of the legislature and the Constitution of the State of Wisconsin. The City of Montreal operates under the Mayor-Council form of government under Chapter 62, Wis. Stats.

(b) **Division of Responsibilities.**

(1) Legislative Branch. The Common Council is the legislative branch of City Government. Its primary business is the passage of laws in the form of ordinances or resolutions which shall prescribe what the law shall be, not only in relation to the particular facts existing at the time, but as to all future cases arising under it. The Common Council shall fix the salaries of all officers and employees of the City, and be charged with the official management of the City's financial affairs, its budget, its revenues and the raising of funds necessary for the operation of the City.

(2) Executive Branch. The Mayor shall be the chief executive officer. He shall take care that all City ordinances and state laws are observed and enforced and that all City officers, boards, committees and commissions discharge their duties. When present, he shall preside at the meetings of the Common Council. He shall from time to time give the Council such information and recommend such measures as he may deem advantageous to the City.

State Law Reference: Wis. Const., Art. XI, Sec. 3.

SEC. 2-1-2 OFFICIAL NEWSPAPER.

When publication is used instead of posting, the official newspaper of the City of Montreal shall be the Iron County Miner.

State Law Reference: Sec. 985.06, Wis. Stats.

SEC. 2-1-3 APPOINTMENT OF ELECTION OFFICIALS.

There shall be a minimum of five (5) inspectors for each polling place at each election held under Chapters 5 to 12, Wis. Stats., and a minimum of seven (7) inspectors for each polling place for presidential elections. When voting machines are used, the number of inspectors may be reduced to five (5). Inspectors shall be appointed as provided in Sec. 7.30, Wis. Stats.

State Law Reference: Sec. 7.30, Wis. Stats.

SEC. 2-1-4 ELECTIONS.

(a) **Annual City Election.** The annual City election shall be held on the first Tuesday in April.

(b) **Polling Hours.** The polls for all elections shall open at 9:00 a.m. and close at 8:00 p.m. The rules for provision of voting booths, ballots and election officials and all of the rules for conduct of elections in Title II, Wisconsin Statutes, shall apply to elections in the City of Montreal.

(c) **Polling Places.** The designated polling place for all wards of the City of Montreal shall be at the City Hall, or as designated by the Common Council.

SEC. 2-1-5 NON-PARTISAN PRIMARY FOR CITY OFFICES.

Whenever three (3) or more candidates file nomination papers, candidates for elective City offices shall be nominated by a non-partisan primary conducted pursuant to Sec. 8.05(4), Wis. Stats. Such candidate shall file with his nomination papers a declaration that he will qualify for the office to which he may be elected.

State Law Reference: Secs. 8.05(4) and 8.11, Wis. Stats.

CHAPTER 2

Mayor; Common Council

2-2-1 Common Council
2-2-2 Aldermen
2-2-3 Mayor
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SEC. 2-2-1 COMMON COUNCIL.

The Aldermen of the City shall constitute the Common Council. The Common Council shall be vested with all the powers of the City not specifically given some other officer, as well as those powers set forth elsewhere throughout this Code.

State Law Reference: Sec. 62.11, Wis. Stats.

SEC. 2-2-2 ALDERMEN.

(a) **Election, Term, Number.** The City shall have four (4) Aldermen in addition to the Mayor, who is a member of the Common Council by virtue of his office as Mayor. The four (4) Aldermen shall constitute the Common Council. Aldermen shall be elected for a term of two (2) years. Aldermen shall be divided into two (2) classes, one (1) class of Aldermen is to be elected in the odd years and one (1) class to be elected in the even years.

(b) **Appointment as Mayor.** An Alderman shall be eligible for appointment as Mayor to fill an unexpired term.

State Law Reference: Sec. 62.09, Wis. Stats.

SEC. 2-2-3 MAYOR.

(a) **Election.** The Mayor shall be elected in even-numbered years for a term of two (2) years.

(b) **Duties.**
   (1) The Mayor shall be the Chief Executive officer of the City. He shall take care that City ordinances and the State Statutes are observed and enforced.
   (2) The Mayor shall, from time to time, provide the Council such information and recommend such measures as he may deem advantageous to the City. When present, he shall preside at the meetings of the Council.
   (3) The Mayor shall have such other duties and responsibilities as are prescribed in the Wisconsin Statutes.

(c) **Veto Power.** He shall have the veto power as to all acts of the Council except such as to which it is expressly or by necessary implications otherwise provided. All such acts shall be submitted to him by the City Clerk-Treasurer, and shall be enforced upon his approval, evidenced by his signature, or upon his failing to approve and disapprove within five (5) days, which fact shall be certified thereon by the Clerk-Treasurer. If the Mayor disapproves, he shall file his objection with the Clerk-Treasurer, who shall present it to the Council at its next regular meeting. A two thirds (2/3) vote of all the members of the Council shall be necessary to make the act effective, notwithstanding the objection of the Mayor.

State Law Reference: Sec. 62.09(8), Wis. Stats.

SEC. 2-2-4 PRESIDENT OF THE COUNCIL.

The Common Council at its first meeting subsequent to the regular election and qualification of new members shall, after organization, annually choose from its members a President who, in the absence of the Mayor, shall preside at meetings of the Council and, during the absence or inability of the Mayor, shall have the powers and duties of the Mayor, except that he shall not have power to approve an act of the Council which the Mayor has disapproved, by filing objections with the Clerk-Treasurer. He shall, when so officiating, be styled "Acting Mayor." The President of the Council shall be elected for a one (1) year term of office.

State Law Reference: Sec. 62.08(9)(e), Wis. Stats.

SEC. 2-2-5 STANDING COMMITTEES; ACTION ON COMMITTEE REPORTS.

(a) **Committee of the Whole.** If any issue requires committee review by more than one (1) committee, this issue shall automatically be referred to the entire Common Council meeting as a "Committee of the Whole." Committee of the Whole meetings shall be chaired by the Alderman, appointed by the Mayor, designated as having primary responsibility for one (1) of the four (4) following areas:
   (1) Parks and Recreation, Fire Department and Welfare Department.
   (2) Library, Water Department and Sewer Department.
   (3) Judiciary Rules and Ordinances, Buildings Permits and Zoning and Street Department.
   (4) Public Works, Liquor Licenses and Finance and Auditing.

(b) **Committee Appointments.**
(1) The chairperson of each committee shall be designated by the Mayor. Each member shall serve as appointed unless excused by a majority of the members of the Council. The Mayor shall be an ex officio member of each committee.
(2) The Mayor may declare the entire Council a committee of the whole for informal discussion at any meeting or for any other purpose, and shall ex officio be chairman of the same, except as provided in Subsection (a).
(3) The Mayor may, from time to time, appoint such special committee or committees as may deem advisable or as provided for by motion or resolution stating the number of members and object thereof to perform such duties as may be assigned to them.

(c) **Reference and Reports.**
(1) The Mayor may refer new business coming before the Common Council to the appropriate committee, unless otherwise referred or disposed of by motion of the Council.
(2) Any written committee reports shall be filed with the City Clerk-Treasurer not later than noon on the Friday preceding the next regular meeting of the Council. Such report shall recommend a definite action on each item and shall be approved by a majority of the committee. The chairman of the committee shall report verbally to the Council at the meeting at which the report of the committee is to be made.

(d) **Cooperation of City Officers.** All City officers shall, upon request of the chairman of the committee, confer with the committee and supply to it such information as may be requested in connection with any matter pending before the committee.

SEC. 2-2-6 GENERAL POWERS OF THE COMMON COUNCIL.

(a) **General.** The Common Council shall be vested with all the powers of the City not specifically given some other officer. Except as otherwise provided by law, the Common Council shall have the management and control of the City property, finances, highways, streets, navigable waters and the public service, and shall have the power to act for the government and good order of the City, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fine, imprisonment and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.

(b) **Acquisition and Disposal of Property.** The Common Council may acquire property, real or personal, within or without the City, for parks, libraries, historic places, recreation, beautification, streets, waterworks, sewage or waste disposal, harbors, improvement of watercourses, public grounds, vehicle parking areas and for any other public purpose; may acquire real property within or continuous to the City, by means other than condemnation, for industrial sites; may improve and beautify the same; may construct, own, lease and maintain buildings on such property for instruction, recreation, amusement and other public purposes; and may sell and convey such City-owned property, except dedicated, platted parks.

(c) **Acquisition of Easements and Property Rights.** Confirming all powers granted to the Common Council and in furtherance thereof, the Council is expressly authorized to acquire by gift, purchase or condemnation under Ch. 32, Wis. Stats., any and all property rights in lands or waters, including rights of access

(c) **Acquisition of Easements and Property Rights.** Confirming all powers granted to the Common Council and in furtherance thereof, the Council is expressly authorized to acquire by gift, purchase or condemnation under Ch. 32, Wis. Stats., any and all property rights in lands or waters, including rights of access and use, negative or positive easements, restrictive covenants, covenants running with land, scenic easements and any rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public or for any public purpose, including the exercise of powers granted under Sec. 62.23, Wis. Stats.; and may sell and convey such easements or property rights when no longer needed for public use or protection.

(d) **City Finances.** The Common Council may levy and provide for the collection of taxes and special assessments; may refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; and generally may manage the City finances.

(e) **Construction of Powers.** Consistent with the purpose of giving to cities the largest measure of self-government in accordance with the spirit of the home rule amendment to the Constitution, the grants of power to the Common Council in this Section and throughout this Code of Ordinances shall be liberally construed in favor of the rights, powers and privileges of cities to promote the general welfare, peace, good order and prosperity of the City and its inhabitants.

State Law Reference: Art. XI, Sec. 3, Wis. Const.; Sections 62.09(7) and 62.11, Wis. Stats.

SEC. 2-2-7 COOPERATION WITH OTHER MUNICIPALITIES

The Common Council, on behalf of the City, may join with other villages, towns, or cities or other governmental entities in a cooperative arrangement for executing any power or duty in order to attain greater economy or efficiency, including joint employment of appointive officers and employees and joint purchasing programs.

State Law Reference: Sec. 66.30, Wis. Stats.

SEC. 2-2-8 INTERNAL POWERS OF THE COUNCIL.

The Common Council has the power to preserve order at its meetings, compel attendance of Aldermen and punish nonattendance. The Common Council shall be judge of the election and qualification of its members.

State Law Reference: Sec. 62.11, Wis. Stats.

SEC. 2-2-9 SALARIES.

The Mayor shall receive a salary of Two Hundred Twenty-five Dollars ($225.00) per month and the Aldermen shall receive a salary of One Hundred Dollars ($100.00) per month. Members of the Common Council, conducting City business, may have their actual and reasonable expenses reimbursed by the City upon submission of a voucher listing said expenses and after approval by the Common Council.

State Law Reference: Sec. 62.09(6), Wis. Stats.

SEC. 2-2-10 MEETINGS OF THE COMMON COUNCIL.

(a) **Annual Organization Meeting.** Following a regular City election, the Common Council shall meet on the third Tuesday of April for the purpose of organization.

(b) **Regular Meetings.** Regular meetings of the Common Council shall be held on the second Tuesday of each calendar month, at the hour of 4:30 p.m. Any regular meetings falling upon a legal holiday shall be held on the next following secular day, at the same hour and place, or as otherwise designated by majority vote of the Common Council. All meetings of the Council shall be held in the Montreal City Hall, including special and adjourned meetings, unless another location is designated by the Common Council at a previous meeting.

(c) **Attendance.** Any Alderman who intends to be absent from a regular Council meeting should notify the Clerk-Treasurer no later than noon preceding the meeting.

State Law Reference: Sec. 62.11(2), Wis. Stats.

SEC. 2-2-11 SPECIAL MEETINGS.

(a) Special meetings may be called by the Mayor or by two (2) Aldermen upon written notice of the time and purpose thereof to each member of the Council delivered to him personally or left at his usual place of abode at least six (6) hours before the meeting. The City Clerk-Treasurer shall cause an affidavit of service of such notice to be filed in his office prior to the time fixed for such special meetings. A special meeting may be held without such notice when all members of the Common Council are present in person, or consent in writing to the holding of such a meeting, provided the provisions of Wisconsin's Open Meeting Law are complied with. If written consent is obtained, it shall be filed with the Clerk-Treasurer prior to the beginning of the meeting. Attendance by any Council member shall be deemed a waiver on his part of any defect of notice. Any special meeting attended by all Aldermen shall be a regular meeting for the transaction of any business that may come before such meeting.

(b) Non-governmental parties requesting a special meeting of the Council shall pay a Twenty-five Dollar ($25.00) fee for such meeting.

State Law Reference: Sec. 62.11(2), Wis. Stats.

SEC. 2-2-12 OPEN MEETINGS.

Except as provided in Sec. 19.85, Wis. Stats., all meetings of the Common Council, committees thereof, and boards, committees and commissions, shall be open to the public.

State Law Reference: Sec. 62.11(3)(c) and Ch. 19, Subch. IV, Wis. Stats.

SEC. 2-2-13 QUORUM.

(a) A majority of the members-elect of the Common Council shall constitute a quorum, but a lesser number may adjourn if a majority is not present or compel the attendance of absent members. The Mayor shall not be counted in computing a quorum. No action shall be taken unless a quorum is present.

(b) The Council may, by a majority vote of those present, adjourn from time to time to a specific date and hour.

State Law Reference: Sec. 62.11(3)(b), Wis. Stats.

SEC. 2-2-14 PRESIDING OFFICERS.

(a) **Presiding Officer.** The Mayor shall preside over all meetings of the Common Council. In the absence of the Mayor, the President of the Council shall preside. In case of absence of the Mayor and President of the Council, the Clerk-Treasurer shall call the meeting to order and the senior Alderman present shall be the president pro tem.

(b) **Duties.** The presiding officer shall preserve order and decorum, decide all questions of order, and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in Robert's Rules of Order, (Revised), unless otherwise provided by statute or by these rules. Any member shall have the right to appeal from a decision of the presiding officer. An appeal shall be sustained by a two-thirds (2/3) vote of the members present excluding the Mayor. In the absence of the Clerk-Treasurer, the presiding officer shall appoint a clerk pro tem.

State Law Reference: Sec. 62.09(8), Wis. Stats.

SEC. 2-2-15 ORDER OF BUSINESS.

(a) **Order of Business.** At all regular meetings, the order of business shall be according to the tentative agenda prepared by the City Clerk-Treasurer and distributed to the Mayor and each member of the Common Council no later than the Monday preceding the regular meeting. Members of the Council and City officers desiring a matter to be placed on the agenda shall submit the same to the City Clerk-Treasurer, who shall be responsible for agenda preparation and distribution, not later than noon on the Friday preceding the regular meeting. Generally, the following order may be observed in the conduct of all meetings of the Council:

(1) Call to order.
(2) Approval of the agenda.
(3) Approval of the Council meeting minutes.
(4) Payment of bills.
(5) Committee Reports.
(6) Unfinished business.
(7) New ordinances and resolutions.
(8) Other new business.
(9) Such other matters as are authorized by law.
(10) Adjournment.

(b) **Order to be Followed; Citizen Comments.** No business shall be taken up out of order unless by unanimous consent of all aldermen and in the absence of any debate whatsoever. The Mayor or presiding officer may impose a time limit on the length of time citizens may address the Council.

(c) **Roll Call; Procedure When Quorum Lacking.** As soon as the Council shall be called to order, the City Clerk-Treasurer shall proceed to call the names of the members, noting who are present and who are absent and record the same in the proceedings of the Council. If it shall appear that there is not a quorum present, the fact shall be entered on the journal and the Council shall adjourn.

SEC. 2-2-16 INTRODUCTION OF BUSINESS, RESOLUTIONS AND ORDINANCES; DISPOSITION OF COMMUNICATIONS.

(a) **Ordinances to be in Writing.** All ordinances submitted to the Council shall be in writing and shall begin with a title and the name of the Alderman or Mayor introducing the same. Any written material introduced may be referred to the appropriate committee pursuant to Section 2-2-5. Any member of the Council may require the reading in full of any ordinance or resolution at any time it is before the Council.

(b) **Subject and Numbering of Ordinances.** Each ordinance shall be related to no more than one (1) subject. Amendment or repeal of ordinances shall only be accomplished if the amending or repealing ordinance contains the number and title of the ordinance to be amended or repealed, and title of amending and repealing ordinances shall reflect their purpose to amend or repeal.

(c) **Notice.**
   (1) The Common Council may take action on an ordinance only if it appears on the written agenda for the meeting at which action is requested.
   (2) Ordinances will be placed on the agenda for Council action only if they are submitted to the City Clerk-Treasurer in written form not later than noon on the Friday prior to the meeting at which action is requested.

SEC. 2-2-17 PUBLICATION AND EFFECT OF ORDINANCES.

(a) All general ordinances of the City and all regulations imposing any penalty shall be published in the official paper of the City once and shall be immediately recorded, with the affidavit of publication, by the City Clerk-Treasurer in a book kept for that purpose. A printed copy of such ordinance or regulation in any book, pamphlet or newspaper and published or purporting to be published therein by direction of the Common Council shall be prima facie proof of due passage, publication and recording thereof.

(b) All ordinances shall take effect and be in force from and after passage and publication, unless otherwise provided and published copies thereof shall have appended the date of first publication.

State Law Reference: Sec. 62.11(4), Wis. Stats.

SEC. 2-2-18 CONDUCT OF DELIBERATIONS.

(a) A roll call shall not be necessary on any questions or motions except as follows:
   (1) When the ayes and noes are requested by any member.
   (2) When required by the State Statutes of Wisconsin.

(b) All aye and nay votes shall be recorded in the official minutes.

(c) Except as provided below, the Common Council shall in all other respects determine the rules of its procedure, which shall be governed by Robert's Rules of Order (Revised 1951), which is hereby incorporated by reference, unless otherwise provided by ordinance or Statute, except when otherwise limited or modified by this Code of Ordinances;

(1) No Alderman shall address the Council until he has been recognized by the presiding officer. He shall thereupon address himself to the presiding officer and confine his remarks to the question under discussion.

(2) When two (2) or more members simultaneously seek recognition, the presiding officer shall name the member who is to speak first.

(3) No person other than an Alderman shall address the Council except under order of business, except that citizens may address the Council with the permission of the presiding officer as to matters which are being considered by the Council at the time.

(4) No motion shall be discussed or acted upon unless and until it has been seconded. No motion shall be withdrawn or amended without the consent of the person making the same and the person seconding it.

(5) The Mayor shall not vote except in the case of a tie. When the Mayor does vote in case of a tie, his vote shall be counted in determining whether a sufficient number of the Council has voted favorably or unfavorably on any measure. A majority vote of all members of the Council in favor of any proposed ordinance, resolution or appointment shall be necessary for passage or approval, unless a larger number is required by ordinance or State Statute. Except as otherwise provided, a majority vote of those present shall prevail in other cases.

(6) Any member of the Council may demand an aye and nay vote on any matter, and all aye and nay votes shall be recorded in the journal. On confirmation of appointments and on the adoption of any measure assessing or levying taxes, appropriating or disbursing money, or creating any liability or charge against the City or any fund thereof, the vote shall be by ayes and noes. A member of the Council may not change his vote on any question after the result has been announced.

(7) When a question is under discussion, the following motions shall have precedence in the order listed:

a. To adjourn.
b. To recess.
c. To lay on the table.
d. To move the previous question.
e. To postpone to a day certain.
f. To refer to a committee.
g. To amend.
h. To postpone indefinitely.

State Law Reference: Sec. 62.11, Wis. Stats.

SEC. 2-2-19 RECONSIDERATION OF QUESTIONS.

It shall be in order for any member, if in the majority, to move for the reconsideration of any vote in question at the same meeting or at the next succeeding regular adjourned meeting. A motion to reconsider being put and lost shall not be renewed.

SEC. 2-2-20 CALL FOR THE PREVIOUS QUESTION.

Any member desirous of terminating the debate may call the previous question when the question announced by the Mayor shall be "call the main question." If a majority of the members present vote in the affirmative, the main question shall be put to a vote without further debate, and its effect shall be to put an end to all debate and bring the Council to a direct vote, first upon the pending amendment and then upon the main question.

SEC. 2-2-21 AMENDMENT OF RULES.

The rules of this Chapter shall not be rescinded or amended unless the proposed amendment or motion to rescind has laid over from a regular meeting, and then it shall require a vote of two-thirds (2/3) of all the members of the Council.

SEC. 2-2-22 SUSPENSION OF RULES.

Any of the provisions of Sections 2-2-17 through 2-2-21, inclusive, of this Code may be suspended temporarily by a recorded vote of two-thirds (2/3) of the Council members present at any meeting.

CHAPTER 3

Municipal Officers and Employees

2-3-1 General Provisions
2-3-2 City Clerk-Treasurer
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2-3-4 City Attorney
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2-3-12 Eligibility for Office
2-3-13 Removal from Office
2-3-14 Custody of Official Property
2-3-15 Oath of Office; Bonds of Officers

SEC. 2-3-1 GENERAL PROVISIONS.

(a) **General Powers.** Officers shall have generally the powers and duties prescribed for like officers of cities, towns and villages, except as otherwise provided, and such powers and duties as are prescribed by law and except as to the Mayor, shall perform such duties as shall be required of him by the Common Council. Officers whose powers and duties are not enumerated in Chapter 62 of the Wisconsin Statutes shall have such powers and duties as are prescribed by law for like officers or as are directed by the Council.

(b) **Rules.** All officers and departments may make the necessary rules for the conduct of their duties and incidental proceedings.

(c) **Applicability of Ethics Statutes.** The general laws for the punishment of bribery, misdemeanors and corruption in office shall apply to City officers.

(d) **Legal Representation.** Whenever any City official in his official capacity proceeded against or obliged to proceed before any civil court, board, committee or commission, to defend or maintain his official position, or because of some act arising out of the performance of his official duties, and he has prevailed in such proceedings, or the Council has ordered the proceedings discontinued, the Council may provide for payment to such official such sum as it sees fit, to reimburse him for the expenses reasonably incurred for costs and attorney's fees.

State Law Reference: Sections 62.09(7) and 62.115, Wis. Stats.

SEC. 2-3-2 CITY CLERK-TREASURER.

(a) **Appointment Not to Be Governed by Statutes.** The City of Montreal, pursuant to Sections 62.09 and 66.01 of the Wisconsin Statutes, hereby elects not to be governed by those portions of Chapter 62, Wis. Stats., which are in conflict with this Section. (Charter Ordinance.)

(b) **Combined Offices.** The offices of City Clerk and City Treasurer are hereby consolidated, and the duties of both offices shall be performed by the person appointed as City Clerk-Treasurer. The Clerk-Treasurer shall be appointed by the Mayor, subject to confirmation by the members-elect of the Common Council.

(c) **Term.** The Clerk-Treasurer shall hold office for an indefinite term subject to termination as is provided for in Sec. 17.12(1)(c) and (d), Wis. Stats.

(d) **Duties.** The City Clerk-Treasurer shall be responsible for performing those duties required by Sec. 62.09(9) and (11) of the Wisconsin Statutes and for the following additional duties:

(1) Perform all election duties as required by Wisconsin Statute and keep and maintain all election records and all property used in conjunction with holding of elections;
(2) Publish all legal notices unless otherwise provided; file and preserve all contracts, bonds, oaths of office and other documents not required to be filed elsewhere;
(3) Issue all licenses required by ordinance or statute, except as otherwise provided;
(4) Prepare the tax roll and tax notices required by the State of Wisconsin.
(5) Attend meetings, take minutes and maintain files for the Common Council, and such other official boards and commissions as may be directed;
(6) Maintain a file on all City records, ordinances, resolutions and vouchers;
(7) Type and distribute reports for the Council and for federal and state agencies;
(8) Audit and obtain approval on claims charged against City;
(9) Prepare financial and bank statements;
(10) Issue purchase orders;
(11) Assist the City Assessor in maintaining property assessment records;
(12) Administer oaths and affirmations;
(13) Maintain fiscal records for the City and serve as City Comptroller;
(14) Issue licenses to various vendors in City;
(15) Make reports to the State on assessments;
(16) Perform record keeping, billing, collections, banking, investments, accounting and financial reporting of all City operations, including utilities;
(17) Develop and implement improved internal control and financial reporting procedures as necessary or as requested;
(18) Collect all taxes for the City and other taxing bodies;
(19) Invest idle funds for maximum interest earnings;
(20) Prepare monthly financial report;
(21) Maintain payroll records and prepare payroll checks from approved employee time sheets;
(22) Prepare check vouchers for payment of approved claims for signature;
(23) Develop and implement improved internal control and financial reporting procedures as necessary or as directed;
(24) Coordinate the preparation and compilation of the annual City budget;
(25) File financial and other reports with various state agencies;
(26) File insurance claims on behalf of the City;
(27) Make property tax settlements with the County Treasurer and turn over to school district and other taxing units their proportionate share of property tax collections;
(28) Locate suppliers of goods or services and obtain quotes;
(29) Advertise for bids, receive them and summarize the results;
(30) Issue purchase orders;
(31) Identify and evaluate ideas to achieve more efficient and effective operation;

(32) Coordinate, supervise and conduct elections;
(33) Confer with Mayor, department heads and Common Council committees about projects and problems;
(34) Serve as member of the Board of Review;
(35) Maintain personnel files;
(36) Perform such other duties as may be directed by Common Council.

(e) **Bond.** The City Clerk-Treasurer shall execute to the City a surety company fidelity bond in an amount determined by the Common Council.

State Law Reference: Sec. 62.09(9) and (11), Wis. Stats.

SEC. 2-3-3 DEPUTY CLERK-TREASURER.

The Clerk-Treasurer may appoint a Deputy Clerk-Treasurer subject to confirmation by a majority of all the members of the Common Council. The Deputy Clerk-Treasurer shall act under the Clerk-Treasurer's direction and who, during the temporary absence or disability of the Clerk-Treasurer or during a vacancy in such office, shall perform the duties of Clerk-Treasurer. The acts of the Deputy shall be covered by official bond as the Common Council shall direct.

SEC. 2-3-4 CITY ATTORNEY.

(a) **Appointment.** The office of City Attorney is an appointed position. The Mayor shall appoint a City Attorney, subject to confirmation by a majority of the members of the Common Council. The City Attorney shall serve at the pleasure of the Council.

(b) **Duties.** The City Attorney shall have the following duties:
(1) The Attorney shall conduct all of the law business in which the City is interested.
(2) He shall, when requested by City officers, give written legal opinions, which shall be filed with the City.
(3) He shall draft ordinances, bonds and other instruments as may be required by City officials.
(4) He may appoint an assistant, who shall have power to perform his duties and for whose acts he shall be responsible to the City. Such assistant shall receive no compensation from the City, unless previously provided by ordinance.
(5) The Common Council may employ and compensate special counsel to assist in or take charge of any matter in which the City is interested.
(6) The City Attorney shall perform such other duties as provided by State law and as designated by the Common Council.

State Law Reference: Sec. 62.09(12), Wis. Stats.

SEC. 2-3-5 FIRE CHIEF.

(a) **Appointment.** The Fire Chief shall be appointed in even-numbered years and serve pursuant to Title 5, Chapter 1, of this Code of Ordinances.

(b) **Duties and Powers.**
(1) The Chief shall have general supervision of the Fire Department personnel, apparatus and equipment. He, or his designee, shall be present at fires and

command all fire-fighting operations. The Fire Chief may make such further rules, regulations and policies for the government of the Fire Department as he may deem necessary, provided such rules and regulations shall not be inconsistent with the laws of the State of Wisconsin or Department bylaws. The Fire Chief shall, by virtue of his office, hold the office of Fire Inspector or he may delegate a member of the Department to serve as the Fire Inspector.

(2) He shall enforce all fire prevention ordinances of the City and State laws and regulations pertaining to fire prevention, and shall keep citizens informed on fire prevention methods, and on the activities of the Department.

(c) **Reports of Chief.** The Fire Chief shall report to the Common Council from time to time at his discretion or upon the request of said Common Council on matters concerning departmental matters and shall perform such other duties in conformance with his office as may from time to time be required of him by the Common Council.

State Law Reference: Sec. 62.13, Wis. Stats.

SEC. 2-3-6 ASSESSOR.

(a) **Appointment.**

(1) The City of Montreal hereby elects not to be governed by those portions of Sec. 62.09(3)(b) of the Wisconsin statutes relating to the method of selection of the City Assessor which are in conflict with this Section.

(2) The City Assessor, or assessing firm, shall be appointed by the Mayor, subject to confirmation by the Council. The Assessor's term shall be indefinite.

(3) A corporation or an independent contractor may be appointed as Assessor. The corporation or independent contractor so appointed shall designate the person responsible for the assessment. The designee shall file the official oath under Sec. 19.01, Wis. Stats., and sign the affidavit of the Assessor attached to the assessment roll under Sec. 70.49, Wis. Stats.

(4) No Assessor shall be appointed unless said Assessor is certified by the Wisconsin Department of Revenue as qualified to perform the functions of the office of Assessor.

(b) **Duties.** The Assessor shall perform all duties required of such office as provided by law and such other duties as are requested to be executed by such person by the Common Council from time to time.

(c) **Definition.** For purposes of this Section, "independent contractor" means a person who either is under contract to furnish appraisal and assessment services or is customarily engaged in an independently established trade, business or profession in which the services are offered to the general public.

State Law Reference: Public Officials' oaths and bonds, Sec. 19.01, Wis. Stats.; corporation as assessor, Sec. 62.09(1)(c), Wis. Stats.; affidavit of assessor, Sec. 70.49, Wis. Stats.; assessor certification, Sec. 73.02, Wis. Stats.; assessors in cities, Sec. 70.05, Wis. Stats.

SEC. 2-3-7 UTILITY CLERK-LIBRARIAN.

The office of Utility Clerk-Librarian is an appointed position. The Mayor shall appoint a Utility Clerk-Librarian, subject to Council confirmation; he shall have an indefinite term of office. The Utility Clerk-Librarian shall prepare and send invoices for services provided by City utilities and shall also serve as librarian for the Montreal Public Library.

SEC. 2-3-8 FOREMAN.

(a) **Appointment.** The City Foreman shall be appointed by the Mayor, subject to confirmation by the Council; he shall have an indefinite term of office.

(b) **Duties.** The City Foreman shall have the following duties:

(1) Plan, direct and inspect the repair and maintenance of streets, curbs and gutters, sidewalks, street lights, street trees;

(2) Plan, direct and inspect the maintenance of parks including grass cutting, playground equipment installation or repair and building maintenance;

(3) Supervise plowing of snow and all phases of snow and ice control on City streets, alleys, sidewalks and public parking lots;

(4) Supervise the operation of the municipal garage and the repair and maintenance of City-owned vehicles and equipment;

(5) Schedule the daily and weekly jobs of the Public Works Department employees and make necessary modifications due to emergencies;

(6) Plan for the maintenance and repair of all City vehicles, machinery and equipment and is responsible for related records;

(7) Work with consulting engineer in planning street and storm sewer projects;

(8) Serve as coordinator between consulting engineer and contractors in street and storm sewer projects;

(9) Repair and maintain all official City sign use and traffic control marking, to be done in compliance with the State Traffic Code and local ordinances.

(10) Perform such other duties as may be directed by the Common Council.

SEC. 2-3-9 HEALTH OFFICER.

(a) **Selection.** The Mayor shall appoint in even-numbered years a Health Officer, subject to confirmation by the Common Council. The Health Officer's term shall commence on the first day of May succeeding his appointment. Such Health Officer shall be a physician, or in lieu thereof, a person with training and experience in public health administration which shall meet training and experience requirements established by the State Department of Health and Social Services. If the Health Officer is not a physician, the Board of Health shall arrange for and provide in addition such services of a physician as may be necessary on either a part-time or full-time basis and provide reasonable compensation therefor.

(b) **Vacancy.** If a vacancy in the position of Health Officer occurs, the Mayor shall immediately fill the position.

(c) **Responsibilities.**

(1) The Health Officer shall provide such additional rules and regulations as are necessary for the preservation of health, to prevent the spread of communicable diseases, and to cause the removal of all objects detrimental to health and to enforce the health laws. All proposed rules and regulations shall be reported to the Common Council by the Health Officer, and if the

Council approves the same by a vote of a majority of its members, they shall have the force and effect of ordinances, including penalty for violation.

(2) The Health Officer shall from time to time recommend to the Common Council such sanitary measures, to be executed by the City as seem necessary, and shall discharge such other duties as may be imposed upon the Council by ordinance or resolution.

State Law Reference: Sec. 141.015, Wis. Stats.; HSS 139.05, Wis. Adm. Code.

SEC. 2-3-10 WEED COMMISSIONER.

The Mayor shall annually appoint a Weed Commissioner at the organizational meeting, or upon the resignation or removal of a Weed Commissioner. The appointment shall be subject to confirmation by a majority of the members of the Common Council present on the date of the vote on the question of said confirmation. The term of office of the Weed Commissioner shall commence on the day of his/her confirmation by the Council. The Weed Commissioner shall hold office pursuant to and fulfill the duties set out in state law and the City of Montreal Code of Ordinances, and as shall be from time to time specified by the Common Council.

State Law Reference: Sections 66.97 and 66.98, Wis. Stats.

SEC. 2-3-11 ANIMAL CONTROL OFFICER.

The Mayor shall annually appoint, subject to Common Council approval, an Animal Control Officer, who, in cooperation with law enforcement officers serving the City, shall be responsible for enforcing the animal control ordinances of the City of Montreal.

SEC. 2-3-12 ELIGIBILITY FOR OFFICE.

(a) No person shall be elected by the people to a City office who is not, at the time of his election, a citizen of the United States and of this State, and an elector of the City, and in case of a ward office, of the ward, and actually residing therein.

(b) An appointee by the Mayor, requiring to be confirmed by the Council, who shall be rejected by the Council, shall be ineligible for appointment to the same office for one (1) year thereafter.

(c) No member of the Common Council shall, during the term for which he is elected, be eligible for an office or position which, during such term, has been created by, or the selection to which is vested in, the Council, provided that the Council may be represented on City boards or commissions where no additional remuneration is paid such representative except as otherwise provided by the laws of the State of Wisconsin.

State Law Reference: Sec. 62.09(2), Wis. Stats.

SEC. 2-3-13 REMOVAL FROM OFFICE.

(a) **Elected Officials.** Elected officials may be removed by the Common Council as provided in Sections 17.12(1)(a) and 17.16, Wis. Stats.

(b) **Appointed Officials.** Appointed officials may be removed as provided in Section 17.12(1)(c) and 17.16, Wis. Stats.

Annotation: 62 Atty. Gen. Op. 97.

SEC. 2-3-14 CUSTODY OF OFFICIAL PROPERTY.

City officers must observe the standards of care imposed by Sec. 19.21, Wis. Stats., with respect to the care and custody of official property.

State Law Reference: Sec. 19.21, Wis. Stats.

SEC. 2-3-15 OATH OF OFFICE; BONDS OF OFFICERS.

(a) **Oath.** Every person elected or appointed to any statutory office shall take and file his official oath within ten (10) days after the notice of his election or appointment.

(b) **Bonds.** The Clerk-Treasurer, and such other statutory officers as the laws of Wisconsin or the Common Council may direct, shall execute and file an official bond in such form as the Council may determine. The Council may at any time require new or additional bonds of any officer. All official bonds must be approved by the Mayor and, when so approved, then be filed within ten (10) days after the officer executing the same shall have been notified of this election or appointment. Official bonds shall be filed with the City Clerk-Treasurer and shall be recorded by him in a book kept by him for that purpose.

CHAPTER 4

Boards, Commissions and Committees

2-4-1 Board of Review
2-4-2 Library Board
2-4-3 Board of Health
2-4-4 Board of Appeals
2-4-5 General Provisions Regarding Meetings and Public Notice

SEC. 2-4-1 BOARD OF REVIEW.

(a) **Composition.** The Board of Review shall consist of the Mayor and two (2) Aldermen, who shall be annuallly appointed by the Mayor at the organizational meeting. The Clerk-Treasurer shall be an ex officio member. The Board of Review members, except members who are full-time employees or officers of the City of Montreal, shall receive such compensation as shall be fixed by resolution or ordinance by the Common Council.

(b) **Duties.** The duties and functions of the Board of Review shall be as prescribed in Sections 70.46 and 70.47, Wis. Stats.

(c) **Board's Duty.** The Board shall carefully examine the assessment roll and correct all apparent errors in description or computation. It shall add all omitted property but shall not raise or lower the assessment of any property except after hearing, as provided by the Statutes.

State Law Reference: Sections 70.46 and 70.47, Wis. Stats.

SEC. 2-4-2 LIBRARY BOARD.

(a) **Organization; Terms.**

(1) There is hereby created, pursuant to Chapter 43 of the Wisconsin Statutes, a municipal Library Board for the Montreal Public Library consisting of a seven (7) member board in three (3) classes; three (3) of such members shall serve for a period of three (3) years, two (2) to serve for two (2) years, and two (2) to serve for a period of one (1) year.

(2) Terms of such members shall be from July first in the year of their appointment, and thereafter each regular appointment shall be for a term of three (3) years. Not more than one (1) member of the Common Council body shall at any one time be a member of the Library Board. The Mayor shall appoint as one of the Library Board members a school district administrator, or his representative, to represent the public school district or districts in which the library is located. Members shall be residents of the City of Montreal, except that not more than two (2) members may be residents of towns adjacent to the City.

(3) A majority of the membership of the Board shall constitute a quorum.

(4) As soon as practicable after the first appointments, at a date and place fixed by the appointing officer, and annually thereafter, within thirty (30) days after the time designated in this Section for the beginning of terms, the members of the Library Board shall organize by election from among their number a President and such other officers that they deem necessary

to prescribe and adopt rules and regulations for the operation of the library.

(b) **Duties and Powers.** The Library Board shall have the duties and powers as prescribed by Chapter 43, and more particularly set forth in Sec. 43.58 of the Wisconsin Statutes. The Library Board shall appoint the Librarian and other library employees.

State Law Reference: Sections 43.54 and 43.58, Wis. Stats.

SEC. 2-4-3 BOARD OF HEALTH.

(a) **Composition.** The Board of Health shall consist of the members of the Common Council meeting as a Committee of the Whole.
(b) **Officers.** The Board of Health shall elect a Chairman and Secretary.
(c) **Powers of Appointment.** The Board of Health may appoint persons to aid them.
(d) **Responsibilities.** The Board of Health shall take such measures as shall be most effectual for the preservation of the public health. It shall be the duty of the Board of Health of the City of Montreal to assume the general administration of health and sanitation laws and regulations in the City and to attend to the administration and enforcement of the health laws of the State and the rules and regulations prescribed by the State Board of Health and the ordinances of the City.

State Law Reference: Sec. 141.015, Wis. Stats.

SEC. 2-4-4 BOARD OF APPEALS.

(a) **Establishment.** A Zoning Board of Appeals shall be appointed as specified in Sec. 62.23(7)(e) of the Wisconsin Statutes. The Zoning Board of Appeals shall consist of five (5) members, appointed by the Mayor, subject to confirmation by the Common Council. The members shall be compensated as determined by the Council and shall be removable by the Common Council for cause upon written charges and upon public hearing. The Mayor shall designate one of the members chairman.
(b) **Powers.** The Zoning Board of Appeals shall have the following powers:
  (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the City's zoning ordinances.
  (2) To hear and decide special exceptions to the terms of City zoning and floodplain zoning regulations upon which the Board of Appeals is required to pass.
  (3) To authorize, upon appeal in specific cases, such variance from the terms of the City's zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the zoning code shall be observed, public safety and welfare secured and substantial justice done; provided, however, that no such action shall have the effect of establishing in any district a use or uses not permitted in such district.
  (4) To permit the erection and use of a building or premises in any location subject to appropriate conditions and safeguards in harmony with the

general purposes of the zoning code, for such purposes which are reasonably necessary for public convenience and welfare.

(5) The Zoning Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination as in its opinion ought to be made regarding the premises. The concurring vote of three (3) members of the Zoning 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 the City's zoning ordinances. The grounds of every such determination shall be stated and recorded. No order of the Zoning Board of Appeals granting a variance shall be valid for a period longer than six (6) months from the date of such order unless a zoning permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.

(c) **Meetings and Rules.** All meetings of the Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the Board may determine. All hearings conducted by the said Board shall be open to the public. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the City Clerk-Treasurer and shall be a public record. The Board shall adopt its own rules of procedure not in conflict with this Section or with applicable Wisconsin Statutes.

(d) **Offices.** The Common Council shall provide suitable meeting space for holding the Zoning Board of Appeals' hearings.

(e) **Appropriations.** The Common Council shall appropriate funds to carry out the duties of the Zoning Board of Appeals and the Board shall have the authority to expend, under regular procedures, all sums appropriated to it for the purpose and activities authorized herein.

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

SEC. 2-4-5 GENERAL PROVISIONS REGARDING MEETINGS AND PUBLIC NOTICE.

(a) **Regular Meetings; Public Notice.** Every Board, Committee and Commission created by or existing under the ordinances of the City shall:

(1) Fix a regular date, time and place for its meeting;

(2) All meeting notices shall be filed with the City Clerk-Treasurer who shall cause the notice to be published and posted in full compliance with the Open Meeting Law Requirements.

(3) Post at the front door of the City Hall, or publish, an agenda of the matters to be taken up at such meeting.

(b) **Special Meetings.** Nothing in Subsection (a) shall preclude the calling of a special meeting or with dispensing with the publication of notice or such posting of the agenda, for good cause, but such special meetings shall nonetheless comply in all respects with the provisions of Sections 19.81 to 19.89, Wis. Stats.

CHAPTER 5

Ethical Standards

2-5-1 Definitions
2-5-2 Declaration of Policy
2-5-3 Statutory Standards of Conduct
2-5-4 Specific Conflicts of Interest

SEC. 2-5-1 DEFINITIONS.

(a) **Public Officer.** Those persons serving in statutory elected or appointed offices provided for in Chapter 62 of the Wisconsin Statutes, and all members appointed to boards, committees and commissions established or appointed by the Mayor, Chairperson and/or Common Council, whether paid or unpaid.
(b) **Public Employee.** Any person excluded from the definition of a public officer who is employed by the City.

SEC. 2-5-2 DECLARATION OF POLICY.

It is declared that high ethical standards among City officers and employees are essential to the conduct of good representative government and that a code of ethics for the guidance of public officers and employees will help them avoid conflicts with improved standards of public service and will promote and strengthen the confidence of the residents of the City in their public officers and employees. The purpose of this Chapter is to establish guidelines for ethical standards of conduct for all such City officers and employees by setting forth those acts or actions that are incompatible with the public interest and which compromise, or appear to compromise, public trust in the fairness, independence and integrity of City officers and employees and their official actions.

SEC. 2-5-3 STATUTORY STANDARDS OF CONDUCT.

The provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are made a part of this Chapter and shall apply to all public officers and public employees whenever applicable, to wit:
(a) **Section 946.10.** Bribery of Public Officers and Employees.
(b) **Section 946.11.** Special Privileges from Public Utilities.
(c) **Section 946.12.** Misconduct in Public Office.
(d) **Section 946.13.** Private Interest in Public Contract Prohibited.

SEC. 2-5-4 SPECIFIC CONFLICTS OF INTEREST.

(a) **Use of Public Property.** No public officer or employee shall use or permit the use of City vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as City policy for the use of such officer or employee in the conduct

of official business, as authorized by the Common Council or authorized board, commission or committee.

(a) **Conflicts of Interest; Disclosure of Interest.** Except as provided herein, no public officer or public employee shall engage in any business transaction with the City, or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or will tend to impair his independence or judgment or action in the performance of his official duties. Any public officer or employee who has a substantial financial interest, including employment, in any business entity entering into, proposing to enter into or bidding on any transaction with the City, or as part of his official duties will be making an official decision or recommendation significantly affecting a business competitor, client or regular customer, shall disclose such interest to the membership of the Common Council (or committee, board or commission thereof, as appropriate) to be recorded in the minutes of that body. Upon such disclosure, it is advised that the public officer or employee abstain from voting on the matter and from participating in the discussion of the matter.

(b) **Representing Private Interests Before the Common Council or City Agencies.** No public officer or employee, including persons or firms engaged to provide professional services to the City, shall represent, for compensation, private interests before the Common Council or any City board, commission or committee without disclosure of the private business relationship and explicit consent of the Common Council.

(c) **Disclosure of Confidential Information.** No public officer or employee shall, without proper authorization of the Common Council, disclose confidential information concerning the property, government or affairs of the City, nor shall he use such information to advance the financial or other private interest of himself or others.

(d) **Gifts and Favors.** No public officer or employee shall accept anything of value whether in the form of a gift, service loan or promise from any person, who, to his knowledge, has a direct financial interest in any transaction or official business with the City, which may tend to impair his independence of judgment or action in the performance of his official duties. However, it is not a conflict of interest for any public officer or employee to receive a gift of gratuity that is an unsolicited item of nominal intrinsic value, such as a meal up to Ten Dollars ($10.00) in value.

TITLE 3

Finance and Public Records

Chapter 1 Finance
Chapter 2 Special Assessments
Chapter 3 Public Records
Chapter 4 Disposal of Surplus Property

CHAPTER 1

Finance

3-1-1 Fee for Returning Checks with Insufficient Funds; Reimbursement of Collection Costs
3-1-2 Duplicate Treasurer's Bond Eliminated
3-1-3 City Budget
3-1-4 Changes in Budget
3-1-5 City funds to be Spent in Accordance with Appropriation
3-1-6 Fiscal Year
3-1-7 Public Depositories
3-1-8 Claims Against City
3-1-9 Temporary Investment of Funds Not Immediately Needed
3-1-10 Facsimile Signatures
3-1-11 Receiving Money; Receipt for Same
3-1-12 Statement of Real Property Status
3-1-13 Accounts Receivable Billing Procedures
3-1-14 Annual Audits
3-1-15 New Machinery and Equipment; Tax; Mill Rate
3-1-16 Budget Ordinance

SEC. 3-1-1 FEE FOR RETURNING CHECKS WITH INSUFFICIENT FUNDS; REIMBURSEMENT OF COLLECTION COSTS.

(a) There shall be a Ten Dollar ($10.00) fee for processing checks made payable to the City that are returned because of insufficient funds in the account in question.
(b) Collection costs and attorneys fees shall be added to the principal amounts of unpaid bills owed to the City that are placed with collection agencies.

SEC. 3-1-2 DUPLICATE TREASURER'S BOND ELIMINATED.

(a) **Bond Eliminated.** The City of Montreal elects not to give the bond on the City Clerk-Treasurer provided for by Sec. 70.67(1), Wis. Stats.
(b) **City Liable For Default of Treasurer.** Pursuant to Sec. 70.67(2), Wis. Stats., the City shall be obligated to pay, in case the City Clerk-Treasurer shall fail to do

so, all state and county taxes required by law to be paid by such City Clerk-Treasurer to the County Treasurer.

State Law Reference: Section 70.67, Wis. Stats.

SEC. 3-1-3 CITY BUDGET.

(a) **Departmental Estimates.** On or before October 1 of each year, each officer, department, board and committee shall file with the City Clerk-Treasurer an itemized statement of disbursements made to carry out the powers and duties of such officer, department, board or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department, board or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the City and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.

(b) **Consideration of Estimates.** The Mayor, with the assistance of the Clerk-Treasurer shall consider such departmental estimates in consultation with the department head, recommend to the Common Council a budget amount for such department or activity.

(c) **Proposed Budget.** On or before November 1, the Mayor shall prepare and submit to the Common Council a proposed budget presenting a financial plan for conducting the affairs of the City for the ensuing calendar year. The budget shall including the following information:
   (1) The expense of conducting each department and activity of the City for the ensuing fiscal year and last preceding fiscal year, with reasons provided for increase and decrease recommended as compared with appropriations for the current year.
   (2) An itemization of all anticipated income from the City from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal year.
   (3) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
   (4) Such other information as may be required by the Common Council and by state law.

(d) **Copies of Budget.** The City Clerk-Treasurer shall provide a reasonable number of copies of the budget summary thus prepared for distribution to citizens. The entire fiscal budget shall be available for public inspection in the Office of the City Clerk-Treasurer during regular office hours.

(e) **Hearing.**
   (1) The Mayor shall submit to the Council at the time the annual budget is submitted the draft of an appropriation ordinance providing for the expenditures proposed for the ensuing fiscal year. Upon the submission of the proposed appropriation ordinance to the Council, it shall be deemed to have been regularly introduced therein.
   (2) A summary of such budget and notice of the time and place where such budget and detail is available for public inspection and notice of the time and place for holding the public hearing thereof shall be published in the

official newspaper of the City at least fifteen (15) days prior to the time of such public hearing.

(3) Not less than fifteen (15) days after the publication of the proposed budget and the notice of hearing thereof, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the City shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time.

(4) A majority vote of the Common Council is required to adopt the proposed budget and a vote of three-quarters (3/4) of the Council is necessary to adopt the appropriations budget.

State Law Reference: Section 62.12, Wis. Stats.

SEC. 3-1-4 CHANGES IN BUDGET.

Upon written recommendation of the Mayor, the Council may at any time, by a two-thirds (2/3) vote of the entire membership, transfer any portion of an unencumbered balance of an appropriation to any other purpose or object. Notice of such transfer shall be given by publication within ten (10) days thereafter in the official newspaper of the City.

SEC. 3-1-5 CITY FUNDS TO BE SPENT IN ACCORDANCE WITH APPROPRIATION.

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by Section 3-1-4 of this Chapter. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the Common Council, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

SEC. 3-1-6 FISCAL YEAR.

The calendar year shall be the fiscal year.

SEC. 3-1-7 PUBLIC DEPOSITORIES.

The Common Council shall designate the public depository or depositories within this state within which City funds shall be deposited, and when the money is deposited in such depository in the name of the City, the City Clerk-Treasurer and bondsman shall not be liable for such losses as are defined by state law. The Clerk-Treasurer shall invest and the interest arising therefrom shall be paid into the City Treasury. A copy of the resolution designating public depositories shall be filed annually with the

State Commissioner of Banking. Pursuant to state law, designated public depositories shall be required to pledge U.S. Treasury Notes equal in amount to any uninsured balance on the City's deposit.

State Law Reference: Chapter 34 and Sec. 62.12(7), Wis. Stats.

SEC. 3-1-8 CLAIMS AGAINST CITY.

(a) **Payment of Claims.** In addition to, and in lieu of the other methods provided by statute for the payment of claims against the City, financial claims against the City may be paid from the City Treasury after the Clerk-Treasurer shall have audited and approved each such claim as a proper charge against the Treasury and shall have endorsed his approval thereon, after having determined that the following conditions have been complied with:
   (1) That funds are available therefor, pursuant to the budget approved by the Council;
   (2) That the item or service covered by such claim has been duly authorized by the proper official, department head, or board or commission;
   (3) That the item or service has been actually supplied or rendered in conformity with such authorization;
   (4) That the claim is just and valid, pursuant to law. The Clerk-Treasurer may require the submission of such proof and evidence to support the foregoing as in his discretion he may deem necessary.

(b) **Payment of Regular Wages or Salaries.** Regular wages or salaries of City officers and employees shall be paid by payroll, verified by the proper City official, department head, board or commission and filed with the Clerk-Treasurer in time for payment on the regular pay day.

SEC. 3-1-9 TEMPORARY INVESTMENT OF FUNDS NOT IMMEDIATELY NEEDED.

The City Clerk-Treasurer may invest any City funds not immediately needed, pursuant to Sections 66.04(2) and 219.05, Wis. Stats.

State Law Reference: Sections 66.04(2) and 219.05, Wis. Stats.

SEC. 3-1-10 FACSIMILE SIGNATURES.

In lieu of the personal signatures of the City Clerk-Treasurer and Mayor, there may be affixed on order checks the facsimile signatures of such persons adopted by them and approved by the Common Council, but the use of the facsimile signature shall not relieve such official from any liability to which he is otherwise subject, including the unauthorized use thereof.

SEC. 3-1-11 RECEIVING MONEY; RECEIPT FOR SAME.

(a) The City Clerk-Treasurer or his deputies shall not receive any money into the Treasury from any source except on account of taxes levied and collected during the fiscal year for which he or she may then be serving, without giving a receipt therefor in the manner specified by the Common Council.

(b) Upon the payment of any money (except for taxes as herein provided), the City Clerk-Treasurer shall make out a receipt in duplicate for the money so received. The Clerk-Treasurer shall charge the amount thereof to the Treasury and credit the proper account. The payment of the money to any receiving agent of the City or to the City or to the Clerk-Treasurer shall be safeguarded in such manner as the Common Council shall direct.

State Law Reference: Section 66.113, Wis. Stats.

SEC. 3-1-12 STATEMENT OF REAL PROPERTY STATUS.

The Clerk-Treasurer is authorized to prepare a Statement of Real Property Status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water, electric, and sewer bills, current water and sewer bills, contemplated improvements, floodplain status, violations of the building and health codes and similar information. Any such information sought shall be provided to the person requesting it on said form. A minimum of forty-eight (48) hours is required for preparation of a statement of real property status.

SEC. 3-1-13 ACCOUNTS RECEIVABLE BILLING PROCEDURES.

Billings by the City may be paid within thirty (30) days after billing without interest. Thereafter, interest may be charged at the rate of one and one-half percent (1-1/2%) per month or any fraction thereof, until the following fifteenth (15th) day of November. Bills not paid on or before the fifteenth (15th) day of November shall have added to the total amount due one and one-half percent (1-1/2%) of said charges shall be entered on the tax roll as a special charge and become a lien upon real estate.

SEC. 3-1-14 ANNUAL AUDITS.

A firm of certified public accountants shall be employed each year by the City, subject to the confirmation of the Common Council to conduct a detailed audit of the City's financial transactions and its books, and to assist the Clerk-Treasurer in the management of the City's financial affairs, including the City's public utilities. These auditors shall be employed on a calendar-year basis. The books audited may, in addition to the City financial records of the office of the Clerk-Treasurer, include the City Clerk-Treasurer's books, the City's public utilities, Police Department records, and any other books of any boards, commission, officers or employees of the City handling City moneys.

SEC. 3-1-15 NEW MACHINERY AND EQUIPMENT; TAX; MILL RATE.

(a) There is hereby levied a tax of two (2) mils per thousand upon all the taxable property within the City of Montreal as returned by the Assessor in the year 2002 for the purchase of new machinery and equipment.

(b) The monies realized from these mils will amount to Thirty-three Thousand One Hundred Twelve and 60/100 Dollars ($33,112.60) for the year 2003, and shall be deposited in a sinking account; any transfer or use of this contingent fund must be authorized by a vote of two-thirds (2/3) of all members of the Common Council.
(c) The City Clerk is hereby authorized and directed to have the said tax spread upon the current tax roll of the City of Montreal.

SEC. 3-1-16 BUDGET ORDINANCE.

(a) There is hereby appropriated out of the receipts of the City of Montreal for the year 2003, including monies received from the general property tax levy, to the various funds and purposes set up in the budget presented herewith for the purposes stated Seven Hundred Forty-six Thousand Four Hundred Seventy-eight and 83/100 Dollars ($746,478.83).
(b) There is hereby levied a tax of Seven Hundred Forty-six Thousand Four Hundred Seventy-eight and 83/100 Dollars ($746,478.83) upon all the taxable property within the City of Montreal as returned by the assessor in the year 2002 for uses and purposes set forth in said budget.
(c) The City Clerk is hereby authorized and directed to have the said tax spread upon the current tax roll of the City of Montreal.

CHAPTER 2

Special Assessments

3-2-1 Common Council May Levy Special Assessments
3-2-2 Resolution and Report Required
3-2-3 Costs That May Be Paid By Special Assessment
3-2-4 Exemptions; Deductions
3-2-5 Notice of Proposed or Approved Project
3-2-6 Council Actions After Hearing
3-2-7 Combined Assessments
3-2-8 Council's Power to Amend, Cancel or Confirm Special Assessment
3-2-9 Where Cost of Improvement is Less Than Assessment
3-2-10 Appeals; Appealed Assessments Payable When Due
3-2-11 Special Assessment a Lien on Property
3-2-12 Special Charges Permissible
3-2-13 Miscellaneous Provisions

SEC. 3-2-1 COMMON COUNCIL MAY LEVY SPECIAL ASSESSMENTS.

(a) The City of Montreal, by resolution of its Common Council, may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement. In addition to other methods approved by law, special assessments for any public work or improvement or any special charge for current services may be levied in accordance with the provisions of this Chapter.

(b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Common Council.

(c) The favored procedure in the City for proceeding with making specially assessable public improvements as generally set forth in this Chapter is not intended in any way to disregard or to bar proceeding under other methods provided by law for making of public improvements and for the levying of assessments therefor. Nor is this Chapter intended to be an exhaustive, detailed recodification of the state law under said statutory section. Detailed requirements still require reference to said statutory section and the subsections thereunder. The purpose hereof is to generally define and establish local procedures.

State Law Reference: Section 66.62, Wis. Stats.

SEC. 3-2-2 RESOLUTION AND REPORT REQUIRED.

(a) Public improvements carried out pursuant to Section 66.60, Wis. Stats., and this Chapter shall be initiated by a preliminary resolution presented to the Council by the Consulting City Engineer, which resolution shall declare the Council's intention to exercise its assessment powers for such municipal purpose(s), describe the same, the limits of the proposed assessment district, the number of

installments in which special assessment may be paid or that the number of installments will be determined at hearing thereon, and direct the Consulting City Engineer to make a report thereon. After adoption of such preliminary resolution by the Common Council, copies thereof shall be forwarded by the City Clerk-Treasurer to the Consulting City Engineer. The City Clerk-Treasurer shall forthwith, after adoption of such preliminary resolution, obtain a list of the names and addresses of all interested persons, if with reasonable diligence their names and addresses may be obtained, and forward the same to the Consulting City Engineer. Upon receipt of copy of such preliminary resolution, the Consulting City Engineer shall prepare the report thereon.

(b) The report required by Subsection (a) shall consist of:
   (1) Preliminary or final plans and specifications.
   (2) An estimate of the entire cost of the proposed work or improvement.
   (3) An estimate, as to each parcel of property affected, of:
      a. The assessment of benefits to be levied.
      b. The damages to be awarded for property taken or damages.
      c. The net amount of such benefits over damages or the net amount of such damages over benefits.
   (4) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimates required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
   (5) A copy of the report when completed shall be filed with the City Clerk-Treasurer for public inspection.

(c) When the Common Council determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or rendering of the service, the report required by Sec. 66.60(3), Wis. Stats., and Subsections (a) and (b) above still contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

SEC. 3-2-3 COSTS THAT MAY BE PAID BY SPECIAL ASSESSMENT.

The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the City and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Common Council.

SEC. 3-2-4 EXEMPTIONS; DEDUCTIONS.

(a) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the City.

(b) A parcel of land against which has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts shall be entitled to such deduction or exemption as the Common Council determines to be reasonable and just under the circumstances of each case when a special assessment is levied for the sanitary sewer or water main laid in the other

street upon which such corner lot abuts. Under any circumstances the assessment will not be less than the long way of such lot. The Common Council may allow a similar deduction or exemption from special assessments levied for any other public improvement.

SEC. 3-2-5 NOTICE OF PROPOSED OR APPROVED PROJECT.

(a) **Notice Requirements.** On the completion and filing of the report and final resolution with the City Clerk-Treasurer required in Section 3-2-2(b)(5) of this Chapter, the City Clerk-Treasurer or Consulting City Engineer shall prepare a Notice of Hearing, which notice shall comply with Sec. 66.60(7), Wis. Stats., and state the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district and the place and time at which the report may be inspected. In publishing the Notice of Hearing, the City Clerk-Treasurer shall set the place and time at which all interested persons, their agents or attorneys may appear before the Common Council or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be signed by the City Clerk-Treasurer who shall cause the same to be published at least once in the official newspaper and shall mail a copy of such notice at least ten (10) days before the hearing to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10) days and not more than forty (40) days after the publication or mailing of said notice.

(b) **Waiver of Notice, Assessments Under.** The Council may, without any notice of hearing, levy and assess the whole or any part of the cost of any municipal work or whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specifically benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment. In such cases, the procedure shall be the same as hereinbefore provided excepting for the noticing and holding of public hearing thereon.

SEC. 3-2-6 COUNCIL ACTIONS AFTER HEARING.

(a) After the hearing, the Common Council may:
  (1) Approve, disapprove, modify or re-refer the report to the Consulting City Engineer with such directions as it deems necessary to change the plans and specifications as to accomplish a fair and equitable assessment.
  (2) Continue the public hearing, preliminarily approve plans and specifications and, if the project requires advertising for bids, authorize and direct the advertisement therefor with a date certain for consideration and taking action thereon, inclusive of action on said report and action on final resolution.

(b) If an assessment be made against any property and an award of compensation or damage be made in favor of the property, the Common Council shall assess only the difference between such assessment of benefits and the award of compensation or damage.

(c) (1) If the work or improvement has not been previously authorized or approved, the Common Council shall approve the work or improvement and by resolution direct that the same be done and paid for in accordance with the report finally approved.

(2) If the work or improvement has been approved by the Common Council or work commenced or completed prior to the filing of the report or prior to the hearing, then the Common Council shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.

(d) The Clerk-Treasurer shall publish the final resolution as required in Section 3-2-2 of this Chapter.

(e) After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by Section 66.60(12), Wis. Stats., or any other applicable provision of law.

(f) As soon as the assessable cost of such work or improvement is finalized, the City Clerk-Treasurer shall issue respective special assessment certificates for each property affected and specifying the manner in which payment is to be made and shall send copy of the respective assessment affecting each property to each owner's post office address that is known or can be obtained with reasonable diligence.

SEC. 3-2-7 COMBINED ASSESSMENTS.

If more than a single improvement is undertaken, the Common Council may combine the assessments as a single assessment on each property affected except that the property owner may object to any one or more of said improvements.

SEC. 3-2-8 COUNCIL'S POWER TO AMEND, CANCEL OR CONFIRM SPECIAL ASSESSMENT.

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the Common Council determines to reconsider an assessment, it is empowered, after giving notice as required in Section 3-2-5 to amend, cancel or confirm any prior assessment; and notice of this amending, canceling or confirming be given by the Clerk-Treasurer as provided in Section 3-2-6 of this Chapter.

SEC. 3-2-9 WHERE COST OF IMPROVEMENT IS LESS THAN ASSESSMENT.

If the cost of the work or improvement is less than the assessment levied, the Common Council without notice or hearing shall reduce each assessment proportionately. If the assessment has been paid either in part or in full, the City shall refund the property owner such overpayment.

SEC. 3-2-10 APPEALS; APPEALED ASSESSMENTS PAYABLE WHEN DUE.

(a) Any person against whose property a special assessment is levied under this Chapter may appeal therefrom in the manner prescribed by Section 66.60(12) of the Wisconsin Statutes, as amended, within forty (40) days of the date of the final determination of the Common Council.

(b) Pursuant to Section 66.60(f), Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable, and upon default in payment any such appeal shall be dismissed.

SEC. 3-2-11 PAYMENT OF SPECIAL ASSESSMENTS; SPECIAL ASSESSMENT A LIEN ON PROPERTY.

(a) **Payment of Special Assessments.**

(1) Without interest. Upon receipt of copy of special assessment certificate, any person may pay the same in full, without interest, if paid to the City Clerk-Treasurer within the grace period therein allowed and as allowed in the final resolution.

(2) After grace period. If any special assessment, or any part thereof, remains unpaid following the running of the grace period specified for payment without interest, at time of preparation of the first tax roll thereafter the same, together with interest computed thereon at the interest rate established in said final resolution and in said certificates computed from the date of levy (i.e., date of final resolution) or the finalizing of assessable costs, whichever is later, shall be entered in such tax roll in such manner as directed in said final resolution and certificate; thereafter, if the same be payable in installments, subsequent installments together with interest at said rate computed on declining balance shall be entered in subsequent tax rolls until fully paid. This provision is in no way intended to prohibit the prepayment of the balance owning at any time on principal together with interest to date of payment only.

(b) **Assessment a Lien.** Pursuant to Subsection (13) of Section 66.60, Wis. Stats., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the City. The Common Council shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Common Council shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

SEC. 3-2-12 SPECIAL CHARGES PERMISSIBLE.

(a) In addition to all other methods provided by law, special charges for current services may be imposed by resolution by the Common Council by allocating all or part of the cost of the property served. Such resolution setting forth the property location, the current service rendered by the City and the special charge therefor or cost thereof. Such resolution for special charges may include snow and ice removal, weed elimination, street sprinkling oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer and water service and tree care or removal. The provision for notice of such charges shall be optional with the Common Council except that in the case of street, sidewalk,

curb or gutter repair, a Class 1 notice published in the official City newspaper at least twenty (20) days before the hearing or proceeding and a copy of such notice mailed to every interested person whose post office address is known, at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Common Council as to whether the service in question shall be performed.

(b) Special charges for current services shall not be payable installments. If not paid within the period fixed by the Common Council in said resolution, such delinquent special charges, pursuant to Section 3-2-11, shall become a lien on said property as of the date of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, as provided by Section 66.60(16) of the Wisconsin Statutes, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge. Notice of special charges for current services need not be given except as required by Section 66.60(16) of the Wisconsin Statutes, as amended.

(c) Section 3-2-2(a) of this Chapter shall not be applicable to proceedings under this Section.

State Law Reference: Section 66.60(16), Wis. Stats.

SEC. 3-2-13 MISCELLANEOUS PROVISIONS.

(a) If any assessment or charge levied under this Chapter is invalid because such Statutes are found to be unconstitutional, the Common Council may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.

(b) The Common Council may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.

(c) Notwithstanding any other provision of law, or this or other ordinance or resolution, it is specifically intended and provided by this Chapter that the City may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

CHAPTER 3

Public Records

3-3-1 Definitions
3-3-2 Duty to Maintain Records
3-3-3 Legal Custodian(s)
3-3-4 Public Access to Records
3-3-5 Access Procedures
3-3-6 Limitations on Right to Access
3-3-7 Destruction of Records
3-3-8 Preservation Through Microfilm

SEC. 3-3-1 DEFINITIONS.

(a) "Authority" means any of the following City entities having custody of a City record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

(b) "Custodian" means that officer, department head, division head, or employee of the City designated under Section 3-3-3 or otherwise responsible by law to keep and preserve any City records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this Section to respond to requests for access to such records.

(c) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

(d) "Direct Cost" means the actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.

(e) "Actual Cost" means the total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

SEC. 3-3-2 DUTY TO MAINTAIN RECORDS.

(a) Except as provided under Section 3-3-7, each officer and employee of the City shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her

office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

(b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the City Clerk-Treasurer. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Clerk-Treasurer, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

SEC. 3-3-3 LEGAL CUSTODIAN(S).

(a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate the City Clerk-Treasurer to act as the legal custodian.

(b) Unless provided in Subsection (c), the City Clerk-Treasurer or the Clerk-Treasurer's designee shall act as legal custodian for the Common Council and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Common Council. The following offices or authorities shall have as a legal custodian of records the individual so named.

Authority	Designated Legal Custodian
City Assessor's Office	City Assessor
General City Records (including Council Records)	City Clerk-Treasurer
Fire Department	Fire Chief
Financial Records	City Clerk-Treasurer
City Attorney's Office	City Attorney
Utility Records	Utility Clerk-Librarian

(c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the City Clerk-Treasurer.

(e) The City Clerk-Treasurer shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis.

SEC. 3-3-4 PUBLIC ACCESS TO RECORDS.

(a) Except as provided in Section 3-3-6 any person has a right to inspect a record and to make or receive a copy of any record of provided in Sec. 19.35(1), Wis. Stats.

(b) Records will be available for inspection and copying during all regular office hours.

(c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least forty-eight (48) hours' advance notice of intent to inspect or copy.

(d) A requester shall be permitted to use facilities comparable to those available to City employees to inspect, copy or abstract a record.

(e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(f) A requester shall be charged a fee of fifteen cents (15¢) per page to defray the cost of copying records.

(1) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.

(2) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- and video-tapes, shall be charged.

(3) If mailing or shipping is necessary, the actual cost thereof shall also be charged.

(4) There shall be no charge for locating a record unless the actual cost therefor exceeds Fifty Dollars ($50.00), in which case the actual cost shall be determined by the legal custodian and billed to the requester.

(5) The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars ($5.00).

(6) Elected and appointed officials of the City shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

(7) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.

(g) Pursuant to Sec. 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This Subsection does not apply to members of the Common Council.

SEC. 3-3-5 ACCESS PROCEDURES.

(a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is

commenced under Sec. 19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the reqeust is received by mail, unless prepayment of a fee is required under Section 3-3-4(f)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the City Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.

(c) A request for a record may be denied as provided in Section 3-3-6. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Sec. 19.37(1), Wis. Stats., or upon application to the attorney general or a district attorney.

SEC. 3-3-6 LIMITATIONS ON RIGHT TO ACCESS.

(a) As provided in Sec. 19.36, Wis. Stats., the following records are exempt from inspection under this Chapter.
  (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
  (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
  (3) Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and
  (4) Pursuant to Sec. 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a common law trade secret. "Trade secrets" are defined as unpatented, secret, commercially valuable plans,, appliances, formulas, or processes which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.

(b) As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Section.

(c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the City Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:

(1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
(2) Pursuant to Sec. 19.85(1)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.
(3) Pursuant to Sec. 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any City officer or employee, or the investigation of charges against a City officer or employee, unless such officer or employee consents to such disclosure.
(4) Pursuant to Sec. 19.85(1)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.
(5) Pursuant to Sec. 19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of City property, investing of City funds, or other City business whenever competitive or bargaining reasons require nondisclosure.
(6) Pursuant to Sec. 19.85(1)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
(7) Pursuant to Sec. 19.85(1)(g), Wis. Stats., communications between legal counsel for the City and any officer, agent or employee of the City, when advice is being rendered concerning strategy with respect to current litigation in which the City or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under Sec. 905.03, Wis. Stats.
(8) Pursuant to Sec. 19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board, and records of advice given by such ethics board on such requests.

(d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the City Attorney prior to releasing any such record and shall follow the guidance of the City Attorney when separating out the exempt material. If, in the judgment of the custodian and the City Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

SEC. 3-3-7 DESTRUCTION OF RECORDS.

(a) City officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, but not less than seven (7) years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such shorter period:
(1) Bank statements, deposit books, slips and stubs.
(2) Bonds and coupons after maturity.
(3) Canceled checks, duplicates and check stubs.
(4) License and permit applications, stubs and duplicates.
(5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.

(6) Receipt forms.
(7) Special assessment records.
(8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.

(b) City officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, subject to State Public Service Commission regulations, but not less than seven (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed not less than two (2) years after payment or receipt of the sum involved or the effective date of said record.
(1) Contracts and papers relating thereto.
(2) Excavation permits.
(3) Inspection records.

(c) City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than seven (7) years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period.
(1) Contracts and papers relating thereto.
(2) Correspondence and communications.
(3) Financial reports other than annual financial reports.
(4) Justice dockets.
(5) Oaths of office.
(6) Reports of boards, commissions, committees and officials duplicated in the Common Council proceedings.
(7) Election notices and proofs of publication.
(8) Canceled voter registration cards.
(9) Official bonds.
(10) Police records other than investigative records.
(11) Resolutions and petitions, providing the text of the same appears in the official City minutes.

(d) Notwithstanding the above provisions appearing in this Section, it is intended hereby that election materials may be destroyed according to lesser time schedules as made and provided in Sec. 7.23, Wis. Stats.

(e) Unless notice is waived by the State Historical Society, at least sixty (60) days' notice shall be given the State Historical Society prior to the destruction of any record as provided by Sec. 19.21(4)(a), Wis. Stats.

(f) Any tape recordings of a governmental meeting of the City may be destroyed, erased or reused no sooner than ninety (90) days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

SEC. 3-3-8 PRESERVATION THROUGH MICROFILM.

Any City officer or the director of any department or division of City government may, subject to the approval of the City Clerk-Treasurer, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in Sec. 16.61(7)(a) and (b), Wis. Stats., and shall be considered original

records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Sections 3-3-4 through 3-3-6 of this Chapter.

CHAPTER 4

Disposal of Surplus Property

3-4-1 Disposal of Surplus City Property

SEC. 3-4-1 DISPOSAL OF SURPLUS CITY PROPERTY.

(a) **Definitions.**

(1) "Surplus City Property" is that property which is owned by the City of Montreal and which has no further usefulness to the City. An item of property shall be considered to have no further usefulness when:

a. The item or its function has been totally replaced by other City property and no probable future function exists for it; or

b. The City no longer performs the service for which the item was purchased and no other service can reasonably be provided by the item; or

c. The item is no longer able to reliably or economically perform the work required of it.

(2) Surplus property as defined in this Chapter shall not include land or buildings but shall include fixtures and such salvage as may be taken from a building without structural damage when such fixtures and salvage are not part of a demolition contract. Surplus City property shall not include property which is obtained by the City as a result of abandonment or loss by the property's original owner. Surplus City property shall not include items of property which are traded in for newer items. Surplus City property shall not include library materials used by the public library for lending purposes.

(b) **Determination of Surplus City Property.**

(1) Whenever an item of City property is determined to be surplus City property on the basis that the City no longer performs the service for which the item was purchased, the Common Council shall determine whether or not the item is surplus City property.

(2) Whenever the fair market value of the item is more than Five Hundred Dollars ($500.00), the Common Council shall determine whether or not the item is surplus City property.

(c) **Disposition of Surplus City Property.**

(1) Whenever the Common Council determines that an item of property is surplus City property, it shall dispose of such property as it determines.

(2) Whenever the fair market value of an item is more than Five Hundred Dollars ($500.00) and the Common Council has determined, pursuant to the previous Subsection, that the item is surplus City property, the department head responsible for the items shall dispose of the property by:

a. Donation to a nonprofit organization within the City or to a governmental agency; or

b. Public auction; or

c. Sale by sealed bid; or

d. Negotiated sale.

(3) In the event of a public auction or sale by sealed bid, the item will be sold in "as-is" condition to the person submitting the highest bid provided, however, that a lower bid submitted by a nonprofit organization or

governmental agency may be accepted by the Common Council. The department head responsible for the item shall determine the time in which the successful bidder must remove the item. In the event the item is not removed within that time, the item shall revert to the City and the amount of the bid shall be forfeited to the City. In the event no bids are received, the item shall be disposed of as directed by the Common Council.

(4) No public auction or awarding of bids shall occur under this Chapter unless a description of the item to be sold and an advance notice of the time and place for such auction or bid submission is first published as a Class 2 notice in the official City newspaper.

(5) Whenever the fair market value of an item is Five Hundred Dollars ($500.00) or less and the Common Council has determined, pursuant to the previous Section, that it is surplus City property, the item shall be either disposed of as set forth in Subsection (c)(2) above or destroyed.

(d) **Determination of Fair Market Values.** Whenever this Chapter requires a determination of the fair market value of an item of property, that determination shall be made by the department head responsible for the property, whose decision shall be final.

(e) **Authority to Dispose of Property.**

(1) Except for library materials used by the public library for lending purposes, only the Common Council may dispose of City property which is not surplus City property.

(2) Whenever this Section provides for an auction or other disposition of any property, the Common Council shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, however, that the fees of such auctioneer and all such costs, other than those for City labor and the use of City property, do not exceed the payment received by the City from the auction or sale of the property.

TITLE 4

Administrative Determinations Review

Chapter 1 Review of Administrative Determinations

CHAPTER 1

Review of Administrative Determinations

4-1-1 Review of Administrative Determinations
4-1-2 Determinations Reviewable
4-1-3 Determinations Not Subject to Review
4-1-4 Municipal Authority Defined
4-1-5 Persons Aggrieved
4-1-6 Reducing Determination to Writing
4-1-7 Request for Review of Determination
4-1-8 Review of Determination
4-1-9 Administrative Appeal
4-1-10 Hearing on Administrative Appeal
4-1-11 Final Determination
4-1-12 Judicial Review
4-1-13 Legislative Review

SEC. 4-1-1 REVIEW OF ADMINISTRATIVE DETERMINATIONS.

Any person aggrieved by an administrative determination of the Common Council or a board, commission, committee, agency, officer or employee of the City or agent acting on its behalf may have such determination reviewed as provided in this Chapter. The remedies under this Chapter shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.

State Law Reference: Section 68.01, Wis. Stats.

SEC. 4-1-2 DETERMINATIONS REVIEWABLE.

The following determinations are reviewable under this Chapter:

(a) The grant or denial in whole or in part after application of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license.
(b) The suspension, revocation or nonrenewal of an existing permit, license right, privilege or authority, except as provided in Section 4-1-3(d).
(c) The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.
(d) The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.

(e) The suspension or removal of a City officer except as provided in Sections 4-1-3(b) and (g).

State Law Reference: Section 68.02, Wis. Stats.

SEC. 4-1-3 DETERMINATIONS NOT SUBJECT TO REVIEW.

The following determinations are not reviewable under this Chapter:

(a) A legislative enactment. A legislative enactment is an ordinance, resolution or adopted motion of the Common Council.
(b) Any action subject to administrative or judicial review procedures under state statute or other provisions of this Code.
(c) The denial of a tort or contract claim for money required to be filed with the City under Sec. 62.25, Wis. Stats.
(d) The grant, denial, suspension or revocation of a fermented malt beverage or intoxicating liquor license under Chapter 125, Wis. Stats.
(e) Judgments and orders of a court.
(f) Determinations made during municipal labor negotiations.
(g) Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements or the City's personnel rules and regulations.

State Law Reference: Section 68.03, Wis. Stats.

SEC. 4-1-4 MUNICIPAL AUTHORITY DEFINED.

"Municipal authority" includes the Common Council, commission, committee, agency, office, employee, or agent of the City making a determination under Section 4-1-1 and every person, committee, or agency of the City to make an independent review under Section 4-1-8(b).

State Law Reference: Section 68.05, Wis. Stats.

SEC. 4-1-5 PERSONS AGGRIEVED.

A person aggrieved includes any individual, partnership, corporation, association, public or private organization; officer, department, board, commission or agency of the City whose rights, duties or privileges are adversely affected by a determination of a municipal authority. No department, board, commission, agency, officer or employee of the City who is aggrieved may initiate review under this Chapter of a determination of any other department, board, commission, agency, officer or employee of the City but may respond or intervene in a review proceeding under this Chapter initiated by another.

State Law Reference: Sections 68.01 and 68.06, Wis. Stats.

SEC. 4-1-6 REDUCING DETERMINATION TO WRITING.

If a determination subject to this Chapter is made orally or, if in writing, does not state the reasons therefor, the municipal authority making such determination shall,

upon written request of any person aggrieved by such determination made within ten (10) days of notice of such determination, reduce the determination and the reasons therefor to writing and mail or deliver such determination and reasons to the person making the request. The determination shall be dated and shall advise such person of his right to have such determination reviewed, that such review may be obtained within thirty (30) days, and the office or person to whom a request for review shall be addressed.

State Law Reference: Section 68.07, Wis. Stats.

SEC. 4-1-7 REQUEST FOR REVIEW OF DETERMINATION.

Any person aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within thirty (30) days of notice to such person of such determination. The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. A request for review shall be made to the officer, employee, agent, agency, committee, board, commission or body who made the determination, but failure to make such request to the proper party shall not preclude the person aggrieved from review unless such failure has caused prejudice to the municipal authority.

State Law Reference: Section 68.08, Wis. Stats.

SEC. 4-1-8 REVIEW OF DETERMINATION.

(a) **Initial Determination.** If a request for review is made under Section 4-1-7, the determination to be reviewed shall be termed an initial determination.

(b) **Who Shall Make Review.** A review under this Section may be made by the officer, employee, agent, agency, committee, board, commission or body who made the initial determination. However, an independent review of such determination by another person, committee or agency of the City, appointed by the Mayor without confirmation, shall be provided if practicable.

(c) **When to Make Review.** The municipal authority shall review the initial determination within fifteen (15) days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.

(d) **Right to Present Evidence and Argument.** The person aggrieved may file with hiss request for review, or within the time agreed with the municipal authority, written evidence and argument in support of his position with respect to the initial determination.

(e) **Decision on Review.** The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority's decision on review which shall state the reasons for such decision. The decision shall advise the person aggrieved of his right to appeal the decision, that appeal may be taken within thirty (30) days, and the office or person with whom notice of appeal shall be filed.

State Law Reference: Section 68.09, Wis. Stats.

SEC. 4-1-9 ADMINISTRATIVE APPEAL.

(a) **From Initial Determination or Decision on Review.**
   (1) If the person aggrieved had a hearing substantially in compliance with Section 4-1-10 when the initial determination was made, he may elect to follow Sections 4-1-6 through 4-1-8, but is not entitled to a further hearing under Section 4-1-10 unless granted by the municipal authority. He may, however, seek judicial review under Section 4-1-12.
   (2) If the person aggrieved did not have a hearing substantially in compliance with Section 4-1-10 when the initial determination was made, he shall follow Sections 4-1-6 through 4-1-8 and may appeal under this Section from the decision made under Section 4-1-8.

(b) **Time Within Which Appeal May be Taken Under This Section.** Appeal from a decision on review under Section 4-1-8 may be taken within thirty (30) days of notice of such decision.

(c) **How Appeal May Be Taken.** An appeal under this Section may be taken by filing with or mailing to the office or person designated in the municipal authority's decision on review written notice of appeal.

State Law Reference: Section 68.10, Wis. Stats.

SEC. 4-1-10 HEARING ON ADMINISTRATIVE APPEAL.

(a) **Time of Hearing.** The City shall provide the appellant a hearing on an appeal under Section 4-1-9 within fifteen (15) days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least ten (10) days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the City Attorney and Clerk-Treasurer who shall forthwith advise the Mayor of such appeal.

(b) **Conduct of Hearing.** At the hearing the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Mayor shall appoint an impartial decision maker who may be an officer, committee, board or commission of the City or the Common Council who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal. The decision maker may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Mayor to conduct the hearing and report to the decision maker.

(c) **Record of Hearing.** The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the City.

(d) **Hearing on Initial Determination.** Where substantial existing rights are affected by an initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this Section before making such determination.

State Law Reference: Section 68.11, Wis. Stats.

SEC. 4-1-11 FINAL DETERMINATION.

(a) Within twenty (20) days of completion of the hearing conducted under Section 4-1-10 and the filing of briefs, if any, the decision maker shall mail or deliver to the appellant its written determination stating the reasons therefor. Such determination shall be a final determination.
(b) A determination following a hearing substantially meeting the requirements of Section 4-1-10 or a decision on review under Section 4-1-8 following such hearing shall be a final determination, judicial review of which may be obtained under Section 4-1-12.

State Law Reference: Section 68.12, Wis. Stats.

SEC. 4-1-12 JUDICIAL REVIEW

(a) Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within thirty (30) days of receipt of the final determination.
(b) The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at his expense. If the person seeking review established impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the City and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

State Law Reference: Section 68.13, Wis. Stats.

SEC. 4-1-13 LEGISLATIVE REVIEW.

(a) Seeking review pursuant to this Chapter does not preclude a person aggrieved from seeking relief from the Common Council or any of its boards, commissions, committees or agencies which may have jurisdiction.
(b) If in the course of legislative review under this Section a determination is modified, such modification and any evidence adduced before the Common Council, board, commission, committee or agency shall be made part of the record on review under Section 4-1-12.
(c) The Common Council, board, commission, committee or agency conducting a legislative review under this Section need not conduct the type of hearing required under Section 4-1-10.

State Law Reference: Section 68.14, Wis. Stats.

TITLE 5

Public Safety

Chapter 1 Fire Prevention
Chapter 2 Fire Prevention Code; Hazardous Materials
Chapter 3 Regulation of Private Alarm Systems
Chapter 4 Emergency Government

CHAPTER 1

Fire Prevention

5-1-1 Fire Department Organization; Goals of the Department
5-1-2 Impeding Fire Equipment Prohibited
5-1-3 Police Power of the Department; Investigation of Fires
5-1-4 Damaging Fire Hose Prohibited; Parking by Hydrants; Blocking Fire Lanes
5-1-5 Firemen May Enter Adjacent Property
5-1-6 Duty of Bystanders to Assist
5-1-7 Vehicles to Yield Right-of-Way
5-1-8 Interference with Use of Hydrants Prohibited
5-1-9 Open Burning

SEC. 5-1-1 FIRE DEPARTMENT ORGANIZATION; GOALS OF THE DEPARTMENT.

(a) **Fire Department Established.** The Montreal Fire Department shall be responsible for the program of fire defense for the citizens and property within the City of Montreal.

(b) **Goals of the Fire Defense Program.**

(1) The primary objective of the fire defense program is to serve all citizens, without prejudice or favoritism, by safeguarding, collectively and individually, their lives against the effects of fires and explosions.

(2) The second objective of the fire defense program is to safeguard the general economy and welfare of the community by preventing major conflagrations and the destruction by fire of industries and businesses.

(3) The third objective of the fire defense program is to protect the property of all citizens against the effects of fire and explosions. All property deserves equal protection, regardless of location or monetary value.

(c) **Organization.** The Montreal Fire Department is authorized and directed to adopt bylaws which do not conflict with this Code of Ordinances for the control, management, government and regulation of its business and proceedings, which bylaws, and amendments thereto, shall be adopted by a two-thirds (2/3) vote of Department members and confirmed by the Common Council. The Fire Chief shall be appointed every two (2) years in even-numbered years by the Mayor at the organizational meeting, subject to Council confirmation. The Fire Chief shall appoint all subordinate officers in the Department.

(d) **Membership.** The Fire Department of the City of Montreal shall consist of the Fire Chief, Assistant Chief, a Captain for each company, a Secretary-Treasurer, one (1) master mechanic, and as many nozzle operators, hydrant operators, ladder operators, hose line operators, traffic operators, drivers and pumping station operators who live within the City of Montreal as may be appointed by the Chief and approved by the Common Council.

SEC. 5-1-2 IMPEDING FIRE EQUIPMENT PROHIBITED.

No person shall impede the progress of a fire engine, fire truck or other fire apparatus of the Montreal Fire Department along the streets or alleys of such City at the time of a fire or when the Fire Department of the City is using such streets or alleys in response to a fire alarm or for practice.

SEC. 5-1-3 POLICE POWER OF THE DEPARTMENT; INVESTIGATION OF FIRES.

(a) **Police Authority at Fires.**
   (1) The Chief and assistants or officers in command at any fire are hereby vested with full and complete police authority at fires. Any officer of the Department may cause the arrest of any person failing to give the right-of-way to the Fire Department in responding to a fire.
   (2) The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons, excepting firemen and policemen and those admitted by order of any officer of the Department, shall be permitted to come.
   (3) The Chief shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire he shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Department during the progress of a fire

(b) **Fire Inspection Duties.**
   (1) The Fire Chief shall be the Fire Inspector of the City of Montreal and shall have the power to appoint one or more deputy Fire Inspectors and shall perform all duties required of the Fire Inspectors by the laws of the State and rules of the Department of Industry, Labor and Human Relations, particularly Section 101.14, Wis. Stats.
   (2) While acting as Fire Inspector pursuant to Sec. 101.14(2), Wis. Stats., the Fire Chief, or any officer of the Fire Department designated by the Fire Chief, shall have the right and authority to enter any building or upon any premises in the City of Montreal at all reasonable hours for the purpose of making inspections or investigations which, under the provisions of this Code of Ordinances, he may deem necessary. Should the Fire Inspector find that any provisions of this Code relating to fire hazards and prevention of fires are being violated, or that a fire hazard exists which should be eliminated, it shall be his duty to give such directions for the abatement of such conditions as he shall deem necessary and, if such directions be not complied with, to report such noncompliance to the Common Council for further action.

(3) The Chief of the Fire Department is required, by himself or by officers or members of the Fire Department designated by him as fire inspectors, to inspect all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires. Such inspections shall be made at least once in six (6) months in all of the territory served by the Fire Department, and not less than once in three (3) months in such territory as the Common Council has designated or thereafter designates as within the City or as a congested district subject to conflagration, and oftener as the Chief of the Fire Department orders. Each six (6) month period shall begin on January 1 and July 1, and each three (3) month period on January 1, April 1, July 1 and October 1 of each year.

(4) Written reports of inspections shall be made and kept on file in the office of the Chief of the Fire Department in the manner and form required by the Department of Industry, Labor and Human Relations. A copy of such reports shall be filed with the Fire Chief.

State Law Reference: Section 101.14(2), Wis. Stats.

SEC. 5-1-4 DAMAGING FIRE HOSE PROHIBITED; PARKING BY HYDRANTS; BLOCKING FIRE LANES.

(a) **Driving Over Fire Hose.** No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the City, and no vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street, private driveway or other place, to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.

(b) **No Parking Near Fire.** It shall be unlawful for any person, in case of fire, to drive or park any vehicle within one block from the place of fire without the consent and authority of the Fire Chief or any police officer.

SEC. 5-1-5 FIREMEN MAY ENTER ADJACENT PROPERTY.

(a) **Entering Adjacent Property.** It shall be lawful for any fireman while acting under the direction of the Fire Chief or any other officer in command to enter upon the premises adjacent to or in the vicinity of a building or other property then on fire for the purpose of extinguishing such fire and in case any person shall hinder, resist or obstruct any fireman in the discharge of his duty as is hereinbefore provided, the person so offending shall be deemed guilty of resisting firemen in the discharge of their duty.

(b) **Destruction of Property to Prevent the Spread of Fire.** During the progress of any fire, the Fire Chief or his assistant shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire; provided that it is inevitable that, unless such property is removed, other property is in danger of being destroyed by fire.

SEC. 5-1-6 DUTY OF BYSTANDERS TO ASSIST.

Every person who shall be present at a fire shall be subject to the orders of the Fire Chief or officer in command and may be required to render assistance in fighting the fire or in removing or guarding property. Such officer shall have the power to cause the arrest of any person or persons refusing to obey said orders.

SEC. 5-1-7 VEHICLES TO YIELD RIGHT-OF-WAY.

Whenever there shall be a fire or fire alarm or the Fire Department shall be out for practice, every person driving or riding in a motorized or other vehicle shall move and remain to the side of the street until the fire engine and fire truck and other fire apparatus shall have passed.

SEC. 5-1-8 INTERFERENCE WITH USE OF HYDRANTS PROHIBITED.

No person shall occupy any portion of such streets or alleys with a motorized or other vehicle between such fire engine or fire truck or other fire apparatus or any hydrant to which a fire hose may be, or may be about to be, attached.

SEC. 5-1-9 OPEN BURNING.

(a) **Open Burning Prohibited.** No person, firm or corporation shall build any outdoor fire within the corporate limits of the City of Montreal excepting as set forth in Subsection (b) of this Section.

(b) **Exceptions.**

(1) Outdoor cooking over a fire contained in a device or structure designed for such use is permissible;

(2) Controlled burning of grass or similar vegetation for environmental management purposes, with the prior written approval of the Fire Chief, may be permitted;

(3) Ceremonial campfire or bonfires, with prior written approval of the Fire Chief, may be permitted;

(4) Controlled burning of dry leaves and other nonoffensive dry yard debris with the prior written approval of the Fire Chief, provided, however, that such burning is:

a. Monitored by a responsible person until the fire has extinguished itself completely;

b. Conducted on days when excessive wind or atmospheric conditions will not result in danger to public health or safety;

c. Located off the public street pavement or street gutter;

d. Located at least thirty (30) feet from any neighboring residence;

e. Not used for covert incineration of offensive substances or materials;

f. Conducted after 4:00 p.m.

(5) Other occasions of desirable outdoor burning not specified by this Subsection, but not as an alternative to refuse removal or disposal of which other methods are available, may be granted single occasion approval as in Subsections (2) and (3) above.

(6) Whenever approval and special permit are granted by the Fire Chief under Subsection (b)(2), (3) and (5) of this Section, the permit may specify and be

conditioned on observance of safety restrictions and insurance requirements set forth therein.

(c) **Chief May Prohibit.** The Fire Chief is permitted to prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

(d) **Burning on Streets.** No materials may be burned upon any street, curb, gutter or sidewalk.

(e) **Liability.** Persons utilizing and maintaining outdoor fires shall be responsible for any liability resulting from damage caused by his fire.

CHAPTER 2

Fire Prevention Code; Hazardous Materials

5-2-1 Adoption of State Codes
5-2-2 Disclosure of Hazardous Materials and Infectious Agents; Reimbursement for Clean-up of Spills
5-2-3 Recovery of Costs of Extinguishing and Cleaning Up Fires Involving Hazardous Materials

SEC. 5-2-1 ADOPTION OF STATE CODES.

The following Orders, Rules and Regulations of the Department of Industry, Labor and Human Relations, all of which are set forth in the Wisconsin Administrative Code as from time to amended, are incorporated herein by reference and adopted as part of this Fire Prevention Chapter:

(a) Wis. Adm. Code Ch. ILHR 1; Safety.
(b) Wis. Adm. Code Ch. ILHR 5; Explosives and Blasting Agents.
(c) Wis. Adm. Code Ch. ILHR 7; Cleaning and Dyeing.
(d) Wis. Adm. Code Ch. ILHR 8; Flammable and Combustible Liquids.
(e) Wis. Adm. Code Ch. ILHR 9; Liquified and Petroleum Gases.
(f) Wis. Adm. Code Ch. ILHR 20; Dusts, Fumes, Vapors and Gases.
(g) Wis. Adm. Code Ch. ILHR 21; Spray Coating.
(h) Wis. Adm. Code Ch. ILHR 35; Safety in Construction.
(i) Wis. Adm. Code Ch. ILHR 43; Anhydrous Ammonia Code.
(j) Wis. Adm. Code Ch. ILHR 50; Administration and Enforcement.
(k) Wis. Adm. Code Ch. ILHR 51; Definitions and Standards.
(l) Wis. Adm. Code Ch. ILHR 52; General Requirements.
(m) Wis. Adm. Code Ch. ILHR 53; Structural Requirements.
(n) Wis. Adm. Code Ch. ILHR 54; Factories, Office and Mercantile Buildings.
(o) Wis. Adm. Code Ch. ILHR 55; Theatres and Assembly Halls.
(p) Wis. Adm. Code Ch. ILHR 56; Schools and Other Places of Instruction.
(q) Wis. Adm. Code Ch. ILHR 57; Apartment Buildings, Hotels and Places of Detention.
(r) Wis. Adm. Code Ch. ILHR 58; Health Care, Detention and Correctional Facilities.
(s) Wis. Adm. Code Ch. ILHR 59; Hazardous Occupancies.
(t) Wis. Adm. Code Ch. ILHR 60; Child Day Care Facilities.
(u) Wis. Adm. Code Ch. ILHR 61; CBRF.
(v) Wis. Adm. Code Ch. ILHR 62; Specialty Occupancies.
(w) Wis. Adm. Code Ch. ILHR 64; Heating, Ventilating and Air Conditioning.
(x) Wis. Adm. Code Ch. ILHR 65; Fire Protection.
(y) Wisconsin Electrical Code.

SEC. 5-2-2 DISCLOSURE OF HAZARDOUS MATERIALS AND INFECTIOUS AGENTS; REIMBURSEMENT FOR CLEAN UP-OF SPILLS

(a) **Application.**

(1) All persons, firms or organizations using, researching or producing hazardous materials and/or infectious agents shall notify the Fire Department as prescribed by this Section.

(2) The provisions of this Section shall apply to all persons, firms or organizations using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of this Section.

(b) **Definitions.**

(1) "Infectious agent" is a bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans which is used, researched, produced or stored within or on premises.

(2) "Hazardous materials" are those materials that can cause death or disabling injury from brief exposure; those materials that could cause a lost-time injury from exposure; and those materials that could cause temporary disability or injury without permanent effects which are used, researched, produced or stored within or on premises except those household consumer products used at the point of consumption and not used for commercial or experimental purposes. This definition of hazardous materials shall include radioactive materials.

(c) **Information Required.**

(1) Any person, firm or organization using, researching, producing and/or storing any hazardous materials shall provide in writing to the Fire Department the following information:

a. Address, location of where hazardous materials are used, researched, stored or produced;
b. The trade name of the hazardous material;
c. The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;
d. The exact locations on the premises where materials are used, researched, stored and/or produced;
e. Amounts of hazardous materials on premises per exact location;
f. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the hazardous material;
g. The flashpoint and flammable limits of the hazardous substance;
h. Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;
i. The stability of the hazardous substance;
j. Recommended fire extinguishing media, special firefighting procedures and fire and explosion hazard information for the hazardous material;
k. Any effect of over-exposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;
l. Any condition or material which is incompatible with the hazardous material and must be avoided.
m. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials;
n. Procedures for handling or coming into contact with the hazardous materials.

(2) Any person, firm or organization using, researching, producing and/or storing infectious agent and/or carrier of an infectious agent shall provide in writing to the Fire Department the following:
   a. The name and any commonly used synonym of the infectious agent;
   b. Address/location where infectious agents are used, researched, stored and/or produced;
   c. The exact locations where infectious agents are used, researched, stored and/or produced;
   d. Amount of infectious agent on premises per exact locations;
   e. Any methods of route of transmission of the infectious agents;
   f. Any symptoms of effect of infection, emergency and first aid procedure and a telephone number to be called in an emergency;
   g. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent;
   h. Procedure for handling, clean-up and disposal of infectious agents leaked or spilled.

(d) **Reimbursement for Cleanup of Spills.** Any person who possesses or controls a hazardous material or infectious agent which was discharged or caused the discharge of a hazardous material or infectious agent shall reimburse the City for actual and necessary expenses incurred by the City or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the circumstance.

SEC. 5-2-3 RECOVERY OF COSTS.

(a) Every person, firm or corporation using, storing, handling or transporting flammable or combustible liquids, chemicals, gasses or other hazardous materials shall comply with the requirements of Chapter ILHR 8, Wis. Adm. Code, as the same is now in force and may hereafter from time to time be amended.

(b) Every person, firm or corporation using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials shall be liable to the City for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or clean up any such hazardous material which is involved in any accidental spill or in threat of any fire or accidental spill.

CHAPTER 3

Regulation of Alarm Systems

5-3-1 False Fire Alarms

SEC. 5-3-1 FIRE FALSE ALARMS.

(a) **Definitions.** A "false fire alarm" is any audible or visual signal transmitted by electrical or electronic means to any person when, in fact, there is no fire.

(b) **Unlawful Practices.** Any person who owns, controls or is otherwise responsible for an electronic or electrical fire alarm system capable of transmitting visual or audible signals to any person, which system transmits more than three (3) false fire alarms in one (1) calendar year shall be subject to a forfeiture pursuant to Section 1-1-7 of this Code of Ordinances.

(c) **City Liability.** The City of Montreal shall be under no duty or obligation to a subscriber or to any other person concerning any provision of this Chapter, including, but not limited to, any defects in an alarm system or any delays in transmission or response to any alarm; however, this in no way shall be construed that it is not the proper function of law enforcement to respond to alarms.

CHAPTER 4

Emergency Government

5-4-1 Joint Action System

SEC. 5-4-1 JOINT ACTION SYSTEM.

(a) (1) A Joint Action Ordinance of the Board of Supervisors of Iron County providing for a county-municipal joint action emergency government plan of organization adopted by said County Board on September 13, 1971. A copy of said County Ordinance is on file with the Clerk-Treasurer, is made a part herein by reference and is hereby ratified and accepted by the City of Montreal, County of Iron.

(2) This ratification and acceptance of the Joint Action Ordinance shall constitute a mutual agreement between the City of Montreal and the County of Iron as provided by Section 2 of the Joint Action Ordinance.

(b) The County-Municipal Emergency Government Coordinator, appointed and employed by the Iron County Board as provided in the referred-to Ordinance, is hereby designated and appointed Emergency Government Coordinator for the City of Montreal, subject to the conditions and provisions as set forth in the Wisconsin Statutes and the Iron County Joint Action Ordinance.

TITLE 6

Public Works

Chapter 1 Grades
Chapter 2 Streets and Sidewalks
Chapter 3 Driveways
Chapter 4 Trees and Shrubs

CHAPTER 1

Grades

6-1-1 Establishment of Grades
6-1-2 Alteration of Grade Prohibited
6-1-3 Regulation and Grades of Underground Utilities

SEC. 6-1-1 ESTABLISHMENT OF GRADES.

(a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by resolution by the Common Council and the same recorded by the City Clerk-Treasurer in his office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.

(b) **New Sidewalk Grade.** Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Common Council, or its designee, shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.

State Law Reference: Sections 62.14(7) and 62.16, Wis. Stats.

SEC. 6-1-2 ALTERATION OF GRADE PROHIBITED.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the City of Montreal by any means whatsoever unless authorized or instructed to do so by the Common Council, or committee thereof. All such alterations of grade shall be recorded in the office of the City Clerk-Treasurer.

SEC. 6-1-3 REGULATION OF UNDERGROUND UTILITIES.

(a) **Elevation.** The grade or elevation of all underground construction shall be a minimum of three (3) feet below the established grade of the street, alley, park, public property or easement. The three (3) feet shall be measured between the top of the established grade and the top of the underground construction.

(b) **Approval of Location.** The location of any and all such underground construction must have the approval of the Common Council, or committee thereof.

(c) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the Common Council, or committee thereof, before construction can begin.

(d) **Inspection.** On request of the Common Council, or committee thereof, the utility company must provide opportunity for City officials to check any construction before it may be covered.

(e) **Conflict with Other Utilities.** If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction at the election of the Common Council, or committee thereof, and in accordance with its directions and specifications.

(f) **Establishment of Grade.** At the request of the utility company, the Common Council, or committee thereof, shall, at the City's expense, give the utility company an established grade on any streets, alleys, public parks or easements where it proposes to install underground utilities.

(g) **Emergency.** In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction subject to obtaining the approval of such work by the Common Council, or committee thereof, as soon thereafter as is reasonably possible.

(h) **Restoration of Surface.** In the event of any such underground construction, the utility company shall leave the surface of the ground, or road, in the same condition as before said work was commenced, and in the event of its failure so to do, the City may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with the provisions of Sections 6-2-3 and 6-2-4.

(i) **Non-Relief from Obligations.** Compliance with this Section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travelway, or any other improvements which may become necessary; nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this Section shall not relieve the utility company from the responsibility or obligation of removing, relocating or moving any of its mains, pipes or property due to the opening, widening or improving of streets, or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

CHAPTER 2

Streets and Sidewalks

6-2-1 Removal of Rubbish and Dirt From Sidewalks
6-2-2 Construction and Repair of Sidewalks
6-2-3 Excavations of Streets, Alleys, Public Ways and Grounds
6-2-4 Regulations Governing Excavations and Openings
6-2-5 Obstructions and Encroachments
6-2-6 Street Privilege Permit
6-2-7 Snow and Ice Removal
6-2-8 Terrace Areas
6-2-9 Vaults
6-2-10 Requests for Improvements
6-2-11 Unlawful Dumping on Streets
6-2-12 Street Numbers
6-2-13 Obstruction of Public Ditches

SEC. 6-2-1 REMOVAL OF RUBBISH AND DIRT FROM SIDEWALKS.

No owner or occupant shall allow the sidewalk abutting on his premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Common Council, or its designee, the City may cause the same to be done and report the cost thereof to the City Clerk-Treasurer who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.60(16), Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

SEC. 6-2-2 CONSTRUCTION AND REPAIR OF SIDEWALKS.

(a) **Sidewalk Repair or Construction.**
   (1) It shall be the duty of the City to repair and reconstruct sidewalks along or upon any street, alley or highway in the City of Montreal. Whenever the Common Council shall, by resolution, determine that a sidewalk be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the City of Montreal, it may proceed according to Sec. 66.615, Wis. Stats. When the Council determines that a sidewalk needs to be constructed or reconstructed, it shall select a contractor to perform the work through proper bidding procedures; the proportionate cost of such work shall then be assessed back to the abutting property owner(s).
   (2) All sidewalks within the City of Montreal hereafter shall be repaired, rebuilt and constructed in accordance with the specifications of this Section.

(b) **Sidewalk Permit Required.** No person shall hereafter lay, remove, replace or repair any public sidewalk within the City unless he is under contract with the City to do such work or has obtained a permit therefor from the City Clerk-Treasurer at least two (2) days before work is proposed to be undertaken. No fee shall be charged for such permits.

(c) **Standard Specifications for Sidewalk.**

(1) General. Concrete sidewalk construction shall meet the specifications and provisions set forth in this Section and shall be constructed in locations and to line and grade as established by the City.

(2) Subgrade. Subgrade shall be two (2) inches of sand fill, thoroughly and uniformly compacted and brought to correct grade placing of concrete and thoroughly wet down immediately before concrete is placed. Soft, porous and unsuitable subgrade material shall be removed and replaced with sand or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed.

(3) Concrete. The minimum quantity of cement per cubic yard shall be six (6) sacks of ninety-four (94) pounds each. Concrete shall be mixed for at least one (1) minute. Gravel shall be of good quality and washed. Concrete shall test three thousand (3,000) pounds compression in twenty-eight (28) days.

(4) Forming. Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Forms shall be securely fastened, staked, braced and held firmly to required line and shall be sufficiently tight to prevent leakage of mortar, and all forms shall remain in place for twenty-four (24) hours after pour.

(5) Jointing, Floating and Finishing. Soon after screening and while the concrete is still plastic, the surface shall be floated with wood, cork or metal floats or by a finishing machine. At all places where the sidewalk intersects another sidewalk or curb-line, a one-half (1/2) inch expansion joint shall be placed. Transverse expansion joints of one-half (1/2) inch thick and four (4) inches wide and five (5) feet long or premolded material shall be located every thirty (30) feet. Sidewalks must be marked off to make blocks five (5) foot square and be at right angles to the parallel lines. Any new sidewalk adjoining an old sidewalk or a sidewalk which abuts curb and gutter shall have one-half (1/2) by four (4) inch expansion joints of premolded material.

(6) Slope. All forms must be approved by the City Foreman, or his designee, before concrete is poured. To provide adequate drainage, the sidewalk shall slope toward the curb at a minimum rate of one-fourth (1/4) inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth (1/4) inch radius edging tool. Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a one (1) foot strip of street property left between the property line and the edge of the sidewalk.

(7) Width and Thickness. Residential walks shall be four (4) feet in width, or as determined by the Council, and not less than four (4) inches thick except within driveway approaches where the minimum thickness shall be six (6) inches and butt to established grade line. Sidewalk width in front of commercial or industrial establishments shall be as determined by the Common Council, or committee thereof.

(8) Finishing. The concrete shall be struck off true to grade, finished smooth and given a broom finish in transverse direction. Edges and joints shall be given a finish with a one-quarter (1/4) inch radius edging tool. Dry cement shall not be spread on a wet surface to take up excess water. Finishing operations shall be delayed until water has disappeared. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Walks shall be kept

free from all traffic at normal temperatures for forty-eight (48) hours and in cold weather [below fifty (50) degrees F.] for ninety-six (96) hours.

(9) Curing. Concrete shall be kept moist by sprinkling, covering or a combination of both for a minimum of five (5) days.

(10) Cold Weather Requirements. When the temperature is less than forty (40) degrees F., all concrete placed in the forms shall have a temperature between fifty (50) degrees F. and seventy (70) degrees F. and shall meet the requirements as per Wisconsin Department of Transportation specifications for cold weather concrete.

(d) **Repair or Replacement of Defective or Damaged Sidewalks.** Pursuant to Sec. 66.615, Wis. Stats., the Common Council may order at any time property owners to repair or remove and replace any sidewalk which is unsafe, defective or insufficient, or which is damaged by the acts of the property owner or his agents. If the property owner shall fail to so repair or remove and replace such sidewalk within sixty (60) days after service of the notice provided in Sec. 66.615(3)(c), Wis. Stats., the Common Council shall repair or construct such sidewalk and the City Clerk-Treasurer shall enter the total cost thereof upon the tax roll as a special tax against said lot or parcel of land. If a life-threatening situation exists which is caused by a sidewalk in need of repair, the Mayor shall immediately direct the property owner to immediately make repairs. If the property owner shall fail to repair such sidewalk within the required period, the Common Council shall make the necessary repairs and the City Clerk-Treasurer shall enter the total cost thereof on the tax roll as a special tax against said parcel.

(e) **Illegal Sidewalks.** No sidewalk which shall be constructed contrary to the provisions of this Section shall be considered a legal sidewalk and the same may be ordered to be replaced with a legal sidewalk and with one that is in conformity with this Section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.

State Law Reference: Sec. 66.615, Wis. Stats.

SEC. 6-2-3 EXCAVATIONS OF STREETS, ALLEYS, PUBLIC WAYS AND GROUNDS.

(a) **Permit Required.** No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ditch, public ground, public sidewalk or City-owned easement within the City of Montreal without a permit therefor from the City Clerk-Treasurer.

(b) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his agent. The applicant shall submit to the City Clerk-Treasurer, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The City Clerk-Treasurer shall determine if sufficient information is submitted.

(c) **City Work Excluded.** The provisions of this Section shall not apply to excavation work under the direction of City departments or employees or to contractors performing work under contract with the City necessitating openings or excavations in City streets.

(d) **Validity of Permit.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided for under Section 6-2-4(g) for pavement replacement.

(e) **Renewal of Permit.** If operations have begun under an approved permit and will continue beyond the thirty (30) day validation period, the permittee shall apply for a thirty (30) day permit renewal by written request to the City Clerk-Treasurer and payment of a Ten Dollar ($10.00) renewal permit fee. Permit renewals shall be issued at the discretion of the City Clerk-Treasurer.

(f) **City Standards; Fees.**

(1) City Standards. All street work shall be performed in accordance with the current standard specifications for street openings found in this Section and Section 6-2-4. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.

(2) Fee. The fee for a street opening permit shall be Ten Dollars ($10.00) plus actual City expenses. Permit fees shall be paid to the City Clerk-Treasurer who shall issue his receipt therefor.

(g) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the City Clerk-Treasurer satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than $500,000 per one (1) person, $500,000 for one (1) accident and property damage coverage of not less than $500,000. The policy shall name the City of Montreal as the third-party insured.

(h) **Bond.**

(1) Before a permit for excavating or opening any public street, sidewalk, ditch, alley or public right-of-way may be issued, the applicant must execute and deposit with the City an indemnity bond in a sum determined by the Mayor conditioned that he will indemnify and save harmless the City of Montreal and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he may make as near as can be to the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Common Council for a period of one (1) year, and that he will pay all fines of forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Common Council and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the City. Such bond shall also guarantee that, if the City shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year. Recovery on such bond for any accident, injury, violation of law, ordinance, rule or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries or violation of law during the period of excavation for which it is given. An annual bond may be given.

(2) Faulty work or materials shall be immediately replaced by the permittee upon notice by the City. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The Common Council shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.

(3) The person who does such restoration shall be responsible therefor for one (1) year from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the City in an amount determined by the Mayor.

(4) Whenever the Common Council shall find that any such work has become defective within one (1) year of the date of completion, he shall give written notice thereof to the contractor or to his surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Common Council to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.

(5) An annual bond may be given under this Section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Common Council as necessary to adequately protect the public and the City.

(i) **Public Utilities.** All public utilities as defined in Sec. 66.06 and 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of this Section and Section 6-2-4, any and all subparagraphs thereunder, except that a public utility as defined within this Section shall not be required to post the indemnity bond.

SEC. 6-2-4 REGULATIONS GOVERNING EXCAVATIONS AND OPENINGS.

(a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and May 1st except where it is determined by the Common Council or City Foreman to be an emergency excavation.

(b) **Protection of Public.**

(1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the City Clerk-Treasurer, and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the City Clerk-Treasurer, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid.

(2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.

(3) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.

(4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the City

Clerk-Treasurer or City Foreman twenty-four (24) hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Section 6-2-4(b).

(5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 6-2-4(g).

(c) **Pavement Removal.**

(1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his work and in accordance with all applicable codes and regulations.

(2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The City Foreman shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.

(3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.

(4) The City Foreman may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.

(d) **Excavation.**

(1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.

(2) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

(e) **Backfilling.**

(1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight (8) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the City Foreman, is unsuitable.

(2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the City Foreman, hauled in.

(3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.

(4) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly compacted to a dry density of at least ninety-five percent (95%) of the maximum dry density as determined by the Modified Proctor Test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.

(5) All excavations shall be subject to testing by the City. Backfilled material not achieving the above compaction requirements shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.

(6) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.

(f) **Notice.** It shall be the duty of the permittee to notify the City Clerk-Treasurer or City Foreman and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The City Clerk-Treasurer or City Foreman shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.

(g) **Pavement Replacement and Sidewalk, Curb and Gutter and Driveway Restoration.**

(1) Backfill material shall be left below the original surface to allow for five (5) inches of three (3) inch crushed stone and four (4) inches of three-quarter (3/4) inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter (3/4) inch crushed stone.

(2) Bituminous pavement shall be placed the full depth of the existing pavement or three (3) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of one and one-half (1-1/2) inch layers with each layer compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge.

(3) Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the City Foreman.

(4) All permanent restoration of street, curb and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform with the grade of the existing adjacent curb and gutter.

(5) All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed and to the lines and grades as given by the City Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.

(6) Sidewalks shall be replaced the full width of the walk and minimum length shall be sixty (60) inches. All replaced walk shall be four (4) inches thick,

except at driveways where it shall be six (6) inches thick. The new walk shall slope to conform to existing construction across the width of the walk toward the street.

(7) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three and one-half (3-1/2) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.

(h) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his agents and employees make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify the Police Department immediately.

(i) **Excavation in New Streets Limited.** Whenever the City determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination by the Common Council, the City shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Common Council, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces.

(j) **Repair by City.** The City may elect to have the City or a contractor working for the City make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining such repair for one (1) year shall be charged to the person making the street opening.

SEC. 6-2-5 OBSTRUCTIONS AND ENCROACHMENTS.

(a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in Subsections (b) and (c).

(b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:

(1) Temporary encroachments or obstructions authorized by permit under Section 6-2-6 of this Section pursuant to Sec. 66.045, Wis. Stats.

(2) Building materials for the period authorized by the Common Council, or its designee, which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.

(3) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.
(4) Signs or clocks attached to buildings which project not more than six (6) feet from the face of such building and which do not extend below any point ten (10) feet above the sidewalk, street or alley.
(5) Awnings which do not extend below any point seven (7) feet above the sidewalk, street or alley.
(6) Obstructions authorized by permit pursuant to Subsection (c).

(c) **Issuance of Permit.**
(1) The Common Council is authorized to issue a permit which allows property owners to place certain fixtures on sidewalks which immediately adjoin their property. In determining if a permit shall be authorized, all of the following requirements must be met:
a. The property must be located in an area zoned for commercial uses.
b. The fixture(s) shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.
c. The placement of the fixture shall not impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than four (4) feet at any point.
d. The property owner whose property adjoins the City sidewalk shall file the permit application or authorize the occupant of the subject property to file the permit application.
(2) Upon reviewing the permit application if it is determined by the Common Council that all of the above requirements have been met, it shall issue the permit. Said permit may be revoked by the Common Council at any time when one (1) or more of the above requirements are not complied with or if he determines that the placement of the fixture(s) endangers the safety of the pedestrians who utilize the sidewalks.

(d) **Removal by City for Sidewalk Obstructions and Encroachments.** In addition to any other penalty imposed, if any City enforcement official determines that a sidewalk is unlawfully obstructed in violation of this Section, he shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.

(e) **Removal by City for Obstruction and Encroachments Located in the City Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if the Common Council determines that a City street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within twenty-four (24) hours.

(f) **Failure to Remove Obstruction.**
(1) If the owner or occupant fails to remove the obstruction within the time period established in Section (d) or (e) respectively, the Council shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by the State Statutes.

(2) The failure of the City Clerk-Treasurer to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the City expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section.

SEC. 6-2-6 STREET PRIVILEGE PERMIT.

(a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways or places of the City may be granted to applicants by the Common Council for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The Common Council may request advisory recommendations from the City Foreman and Building Inspector prior to issuance of the permit. City officials may attach conditions to the permit, including proof of liability insurance.

(b) **Bond.** No street privilege permit shall be issued until the applicant shall execute and file with the City Clerk-Treasurer a bond not exceeding Twenty Thousand Dollars ($20,000.00), conditioned that the applicant will indemnify and save harmless the City from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the City resulting from such building or moving operations.

(c) **Fee.** The fee for a street privilege permit shall be in the sum of Ten Dollars ($10.00), plus any actual City costs.

(d) **Conditions of Occupancy.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Mayor or Common Council for violation thereof:

(1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.

(2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.

(3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.

(4) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.

(5) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.

(e) **Termination.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Common Council.

(f) **Removal by City.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within twenty-four (24) hours after such

notice from the Common Council to do so, it shall be the duty of the City to remove such obstruction and make return of the costs and expenses thereof to the City Clerk-Treasurer who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

State Law Reference: Sec. 66.045, Wis. Stats.

SEC. 6-2-7 SNOW AND ICE REMOVAL.

(a) **Removal From Sidewalks.** The owner, occupant or person in charge of any parcel or lot which fronts upon or abuts any sidewalk shall keep said sidewalk clear of all snow and ice. In the event of snow accumulating on said sidewalk due to natural means and/or by any other means, said sidewalks shall be cleared of all accumulated snow and/or ice within twenty-four (24) hours from the time the snow ceases to accumulate on said sidewalk. Sidewalks are to be kept clear of snow and ice to a minimum of four (4) feet in width. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of the parcel or lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with material to accelerate melting or prevent slipping.

(b) **Notice and Removal of Snow from Sidewalks.** If the owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall fail to keep said sidewalk clear of snow and ice as set forth in Subsection (a), the City Foreman shall take the following action:

(1) Hazardous Conditions. If the City Foreman determines that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, he shall cause the issuance of a written notice to the owner, occupant or person in charge of any parcel or lot directing that the snow and ice be removed immediately after the delivery of the notice. In the event the property owner, occupant or person in charge of said parcel or lot is unavailable to receive a written notice, the City Foreman shall immediately cause the removal of the snow and/or ice. The City Foreman shall send a written notice to the last-known address of the property owner notifying him that a hazardous condition existed which required immediately abatement.

(2) Snow and Ice Not to Encroach. No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use except for parcels or lots located where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks exist from the City right-of-way to the curb line. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks only onto the public streets. Snow from public sidewalks shall not be stored in any manner which will obstruct or limit vehicular or pedestrian vision, movement or access. The deposit of any snow or ice upon any sidewalk, alley or street of the City, contrary to the provisions of this Section, is a nuisance; and in addition to the penalty provided for violation of this Section, the City may summarily remove any snow or ice so deposited and cause the cost of said removal to be charged to the owner of the property from which said snow or ice had been removed.

(c) **Enforcement.** The City Foreman is hereby authorized and directed to enforce the provisions of this Section.

(d) **Continued Violations.** Each twenty-four (24) hour period where a violation occurs shall constitute a separate offense under this Section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this Section.

(e) **Abatement After Notice.** Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection (b)(1) and (2) after receiving a written notice shall result in the City Foreman causing the removal of said snow and/or ice.

(f) **Expense.** An account of the expenses incurred by the City to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.615(5), Wis. Stats.

(g) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances.

State Law Reference: Sections 66.60(16) and 66.615(3)(f) and (5), Wis. Stats.

SEC. 6-2-8 TERRACE AREAS.

(a) **Definition.** The definition of "terrace" shall be as defined in Section 6-4-2(f).

(b) **Noxious Weeds; Paving.** All that part of the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Common Council or its designee.

(c) **Responsibility to Maintain.** Every owner of land in the City whose land abuts a terrace is required to maintain, or have maintained by his tenant, the terrace directly abutting such land as provided in this Section and elsewhere in this Code. Every owner shall keep mailboxes located on a terrace free and clear of snow.

Cross Reference: Title 6, Chapter 4.

SEC. 6-2-9 VAULTS.

All vaults and cisterns under sidewalks shall be prohibited.

SEC. 6-2-10 REQUESTS FOR IMPROVEMENTS.

Requests or petitions by City property owners for new streets, street resurfacing, curb and gutter, storm sewers, utility work and sidewalks shall be presented to the Common Council on or before September 1st to be considered for installation in the following year.

SEC. 6-2-11 UNLAWFUL DUMPING ON STREETS.

It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley, or upon any public property or upon any property of another, without the express permission of the owner of occupant thereof.

SEC. 6-2-12 STREET NUMBERS.

(a) **Buildings to Have Street Numbers.** Each principal building in the City shall be assigned an official street number by the City Clerk-Treasurer. All lots and parts of lots in the City shall be numbered in accordance with a street numbering map on file in the office of the City Clerk-Treasurer. Plats shall be numbered to conform as nearly as possible to the general scheme of numbering as outlined on the map.

(b) **Street Numbers to Be Displayed.** The owner, occupant, or agent in charge of the premises shall cause to be affixed and to be maintained when so affixed to each principal building controlled by him the official street number assigned to that building as provided in (a) hereof. The physical numbers provided herein shall be not less than two and one-half (2-1/2) inches high on a background of not less than three (3) inches. Each required number shall be affixed on the particular building in such a location that it may be easily and readily seen by a person of ordinary eyesight on the public street or highway upon which the building abuts. For buildings abutting also on a public alley, the street number shall also be affixed in such location that it may be seen in like manner from such alley.

(c) **Noncompliance.** If the owner or occupant of any building neglects for twenty (20) days to duly attach and maintain the proper numbers on the building, the City shall serve him a notice requiring him to properly number the same, and if he neglects to do so for ten (10) days after service, he shall be subject to a forfeiture as provided in Section 1-1-7.

SEC. 6-2-13 OBSTRUCTION OF PUBLIC DITCHES.

No person shall in any manner obstruct or cause to be obstructed the free passage of water in any public gutter, ditch, culvert, swale or drain or place or cause to be placed any rubbish, dirt, sand, gravel or any other matter or thing so that the same is likely to be carried by the elements into any public gutter, ditch, culvert, swale or drain.

CHAPTER 3

Driveways

6-3-1 Driveway Permit Required
6-3-2 Driveway Location, Design and Construction Requirements

SEC. 6-3-1 DRIVEWAY PERMIT REQUIRED.

(a) **Purpose.** For the safety of the general public, the City shall determine the location, size, construction and number of access points to public roadways within the City limits. It is the City's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.

(b) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person, firm or corporation shall construct, reconstruct, alter or enlarge any private driveway within the limits of the dedicated portion of any public street under the control and jurisdiction of the City of Montreal without first obtaining a permit therefor as provided by this Chapter.

(c) **Application.** Application for such permit shall be made to the City Clerk-Treasurer on a form provided by the City and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered or enlarged lying within the dedicated portion of the public street, the dimensions thereof and a statement of the materials proposed to be used. The applicant shall pay a fee of Five Dollars ($5.00). Upon receipt of the application and the fee if required, unless the proposed private driveway is a part of construction for a building or other structure for which a building permit has been applied for, in which case no additional fee is required, the City Clerk-Treasurer shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable City ordinance.

(d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:

(1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the City street, or for any other purpose.

(2) The City, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the City street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damage or destruction of such private roadway.

(3) The permittee, his successors or assigns, agrees to indemnify and hold harmless the City of Montreal, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.

(4) The City does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon

such portion of such driveway within the dedicated portion of the City street.

SEC. 6-3-2 DRIVEWAY LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS.

(a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:

(1) General Design. Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Common Council, or committee thereof, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.

(2) Number. The number of driveways to serve an individual property fronting on a street shall be one (1), except where deemed necessary and feasible by the Common Council, or committee thereof, for reasonable and adequate service to the property, considering the safety, convenience and utility of the street.

(3) Island Area. The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (7).

(4) Drainage. The surface of the driveway connecting with street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed.

(5) Culverts. Driveways shall not obstruct or impair drainage in street ditches or roadside areas. Driveway culverts, where required, shall be adequate for surface water drainage along the street and shall not be less than the equivalent of a 12-inch diameter pipe. The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled in pursuant to the provisions of Subsection (7) hereof.

(6) Reconstruction of Sidewalks and Curb and Gutter. When the construction of a driveway requires the removal of a curb or gutter the new connections shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway construction shall include the replacement of such sidewalk areas which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk. All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code insofar as such requirements are applicable, including thickness requirements. Standard thickness of driveway approaches will be six (6) inches thick.

(7) Restricted Areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
   a. The filling or draining shall be to grades approved by the City Foreman and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.
   b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate manholes adequate for cleanout purposes may be required where the total culvert length is excessive.
   c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Superintendent of Streets.

(8) Relocation of Utilities. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Common Council necessary before any utility may be relocated and the driveway installed.

(9) Construction Across Sidewalks. All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code insofar as such requirements are applicable, including thickness requirements.

(10) Variances. Any of the above requirements may be varied by the Common Council in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.

(b) **Special Requirements for Commercial and Industrial Driveways.** The following regulations are applicable to driveways serving commercial or industrial establishments:

(1) Width of Drive. No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than thirty (30) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Common Council in its discretion may permit a driveway of additional width.

(2) Angular Placement of Driveway. The angle between the center line of the driveway and the curb line shall not be less than 45^{o}.

(3) Island Areas. Where the public sidewalk is adjacent to the curb, an island of a minimum length of six (6) feet measured along the curb line shall be placed between each entrance to a City street. The curb shall be left intact for the length of this island. Where the public sidewalk is remote from the curb, an island of a minimum length of ten (10) feet measured along the right-of-way line shall be maintained along each entrance to the City street. All flares shall be tangent to the curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his property.

(c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:

(1) Unless special permission is first received from the Common Council, or committee thereof, a residential single-type driveway shall be no greater than eighteen (18) feet wide at the curb line and fifteen (15) feet wide at the outer or street edge of the sidewalk; residential double-type driveways shall be no greater than twenty-four (24) feet wide at the curb line and eighteen (18) feet wide at the outer or street edge of the sidewalk.

(2) Angular Placement. The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.

(d) **Appeal from Permit Refusal.** Any person feeling himself aggrieved by the refusal of the Clerk-Treasurer to issue a permit for a private driveway may appeal such refusal to the Common Council within twenty (20) days after such refusal to issue such permit is made.

(e) **Prohibited Driveways.**

(1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the City of Montreal except as permitted by this Section. As used herein the word "structure" includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.

(2) No driveway shall be closer than fifteen (15) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the City for effective traffic control or for highway signs or signals.

(3) The grade of that portion of any private driveway or pedestrian path located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.

(4) No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into any gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadside areas, or with any existing structure on the right-of-way.

(5) No portion of any curb, parapet or retaining wall, rising above the grade of the driveway, erected by the owner of the premises involved shall extend beyond the culvert spanning the water course located in such public way.

CHAPTER 4

Trees and Shrubs

6-4-1 Statement of Policy and Applicability of Chapter
6-4-2 Definitions
6-4-3 Authority of City Forester to Enter Private Premises
6-4-4 Interference with City Forester Prohibited
6-4-5 Abatement of Tree Disease Nuisances
6-4-6 Planting of Trees and Shrubs
6-4-7 Trimming
6-4-8 Trees and Shrubbery Obstructing View at Intersections or View of Traffic Signs
6-4-9 Removal of Trees and Stumps
6-4-10 Prohibited Acts
6-4-11 Appeal from Determinations and Orders
6-4-12 Adoption of State Statutes

SEC. 6-4-1 STATEMENT OF POLICY AND APPLICABILITY OF CHAPTER.

(a) **Intent and Purpose.** It is the policy of the City to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the City to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the City; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrubs both public and private within the City against the spread of disease, insects or pests.

(b) **Application.** The provisions of this Chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

SEC. 6-4-2 DEFINITIONS.

Whenever the following words or terms are used in this Chapter, they shall be construed to have the following meanings:

(a) **Person.** "Person" shall mean person, firm, association or corporation.

(b) **Public Areas.** "Public Areas" includes all public parks and other lands owned, controlled or leased by the City except the terrace areas.

(c) **Public Trees and Shrubs.** "Public Trees and Shrubs" means all trees and shrubs located or to be planted in or upon public areas.

(d) **Public Nuisance.** "Public Nuisance" means any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.

(e) **Boulevard or Terrace Areas.** "Boulevard or Terrace Areas" means the land between the normal location of the street curbing and sidewalk. Where there is no curb and gutter, the area four feet from the curb line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace." Where there are no sidewalks, the area four (4) feet from the curb shall be deemed boulevard areas under this Chapter.

(f) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.

(g) **Shrubs.** "Shrubs" shall mean any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.

(h) **Tree.** "Tree" shall mean any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.

(i) **Evergreen Tree.** "Evergreen Tree" shall mean any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.

(j) **Forester.** The City Foreman shall serve as the City Forester.

SEC. 6-4-3 AUTHORITY OF CITY FORESTER TO ENTER PRIVATE PREMISES.

The City Forester or his authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Sec. 66.122, Wis. Stats.

SEC. 6-4-4 INTERFERENCE WITH THE CITY FORESTER PROHIBITED.

No person shall interfere with the City Forester or his authorized representative while they are engaged in carrying out any work or activities authorized by this Chapter.

SEC. 6-4-5 ABATEMENT OF TREE DISEASE NUISANCES.

(a) **Dutch Elm and Other Tree Diseases a Public Nuisance.** Whereas the Common Council has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is threatened by fatal diseases such as Dutch Elm disease, which is spread by the elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.), the Common Council hereby declares its intention to control and prevent the spread of such disease and the insect pests and vectors which carry such diseases and specifically declares Dutch Elm disease and the elm bark beetles which carry such disease to be public nuisances.

(b) **Definitions.** As used in this Section, unless otherwise clearly indicated by the context:

(1) "Public Nuisance" means:

a. Dutch Elm disease.

b. Elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.).

c. Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus or in a weakened condition which harbors any of the elm bark beetles, Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.).
d. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.
e. Any other deleterious or fatal tree disease.
f. Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the terrace strip between curb and lot line.
g. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.

(2) "Public property" means owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.

(3) "Person" means person, firm or corporation.

(c) **Inspection.**

(1) The City Forester shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon. He shall also inspect or cause the inspection of any elm tree reported or suspected to be infested with the Dutch Elm disease or any elm bark bearing materials reported or suspected to be infested with elm bark beetles.

(2) Whenever necessary to determine the existence of Dutch Elm disease or elm bark beetles in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the Forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.

(3) The Forester and his agents or employees shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this Section.

(d) **Abatement of Nuisances; Duty of Forester.**

(1) The Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this Section by spraying, removal, burning or by other means which he determines to be necessary to prevent as fully as possible the spread of Dutch Elm disease fungus, other deleterious tree diseases or the insect pests or vectors known to carry such diseases.

(2) Whenever the Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the City, he shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm disease, other deleterious tree diseases, or the inspect pests or vectors known to carry such disease fungus.

(3) a. When the Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, he shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing before the Common Council, or committee thereof,

not less than fourteen (14) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the City, the Forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the City.

b. If, after hearing held pursuant to this Subsection, it shall be determined by the Common Council, or committee thereof, that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing, the Forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this Section. The Forester may extend the time allowed the property owner for abatement work but not to exceed ten (10) additional days.

(e) **Spraying.**

(1) Whenever the Common Council, upon the recommendation of the City Forester, shall determine that any tree or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors elm bark beetles, he may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed with an effective disease destroying concentrate or other insecticide.

(2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the Forester shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying.

(3) When appropriate warning notices and temporary "no parking" notices have been given and posted in accordance with Subsection (b) of this Section, the City shall not allow any claim for damages to any vehicle caused by such spraying operations.

(4) When trees on private property are to be sprayed, the Forester shall notify the owner of such property and proceed in accordance with the requirements of Subsection (d)(3).

SEC. 6-4-6 PLANTING OF TREES AND SHRUBS.

(a) **Planting.**

(1) The size and genus, species and variety of trees and shrubs to be planted in terraces, tree banks and boulevards and the manner of planting shall be submitted to the City Forester for approval before commencement of such work.

(2) There shall be a minimum distance of sixteen (16) feet and a recommended distance of twenty-five (25) to fifty (50) feet between terrace area trees depending upon the size of tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than three (3)

feet wide, planting will not be permitted. Terrace area trees shall be a minimum of twenty-five (25) feet from an intersection.

(3) Evergreen trees shall not be planted in a terrace area.

(4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of eight (8) inches in height above the top of the nearest curb.

(5) Tree grates shall be provided for terrace trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.

(b) **Unlawfully Planted Trees.** Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the Forester may be removed. The Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the City may remove such trees, plants or shrubs and assess the costs thereof to the owner.

SEC. 6-4-7 TRIMMING.

(a) Trees and shrubs standing in or upon any boulevard, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The City Forester may waive the provisions of this Section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.

(b) The necessity of the pruning may be determined by the City Forester.

(c) Clearance from sidewalk to lower branches shall not be less than ten (10) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten (10) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.

(d) Trimming or pruning of more than two-thirds (2/3) of the crown shall be considered to be a major alteration and shall require a permit from the City Forester.

SEC. 6-4-8 TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTION OR VIEW OF TRAFFIC SIGNS.

(a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.

(b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.

(c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the City Forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the City Forester and/or Common Council shall order City employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.

(d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the City Forester as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1-1-7 of this Code of Ordinances.

Cross Reference: Section 13-1-90.

SEC. 6-4-9 REMOVAL OF TREES AND STUMPS.

(a) **Dangerous, Obstructive and Infected Trees.** Any tree or part thereof, whether alive or dead, which the City Forester shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the City, or to be injurious to sewers, sidewalks or other public improvements whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The City Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the City Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the City Forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Clerk-Treasurer, who shall thereupon enter such cost as a special charge against the property.

(b) **Removal Standards.** In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out, or ground out to a depth of at least nine (9) inches below grade measured in a straight line with the normal grade of sidewalk to top of nine (9) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil as soon as practicable. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased.

(c) **Private Removal.** No person, firm, organization or corporation shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place, until a permit shall have been issued by the City Forester. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the City Forester, because of disease, damage, hazardous condition, and/or location, or its location is such that substantial detriment is done to the property upon which the tree or shrub stands, or

property abutting the same. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.

SEC. 6-4-10 PROHIBITED ACTS.

(a) **Damage to Public Trees.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the City Forester in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:
   (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
   (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
   (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.
   (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
   (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
   (6) Cause or encourage any fire or burning near or around any tree.

(b) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the City Forester.

(c) **Interference With Forester.** No person shall:
   (1) Interfere with or prevent any acts of the Forester or his agents or employees while they are engaged in the performance of duties imposed by this Section.
   (2) Refuse to permit the Forester or his duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this Section.

(d) **Refusal to Abate Nuisance.** Permits any public nuisance to remain on any premises owned or controlled by him when ordered by the Forester to abate such nuisance.

SEC. 6-4-11 APPEAL FROM DETERMINATIONS OR ORDERS.

Any person who receives a determination or order under this Chapter from the City Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Title 4 of this Code of Ordinances, to the Common Council within seven (7) days of receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination appealed from and the grounds for its

decision shall be stated in writing. The Common Council shall, by letter, notify the party appealing the order or determination of its decision within ten (10) days after the hearing has been concluded. The Council shall file its written decision with the Clerk-Treasurer.

SEC. 6-4-12 ADOPTION OF STATE STATUTES.

Sections 27.09 and 86.03, Wis. Stats., are hereby adopted and incorporated herein by reference.

State Law Reference: Sections 27.09 and 86.03, Wis. Stats.

TITLE 7

Licensing and Regulation

Chapter 1 Licensing of Dogs and Regulation of Animals
Chapter 2 Fermented Malt Beverages and Intoxicating Liquor
Chapter 3 Pharmacists' Permits; Cigarette License
Chapter 4 Direct Sellers
Chapter 5 Mobile Homes
Chapter 6 Regulation and Licensing of Fireworks
Chapter 7 Licenses to Pay Local Claims; Appellate Procedures

CHAPTER 1

Licensing of Dogs and Regulation of Animals

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7-1-2 Rabies Vaccination Required for License
7-1-3 Issuance of Dog and Kennel Licenses
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7-1-5 Rabies Quarantine
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7-1-20 Animal Feces
7-1-21 Penalties

SEC. 7-1-1 DOG LICENSE REQUIRED; DEFINITIONS.

(a) **License Required.** It shall be unlawful for any person in the City of Montreal to own, harbor or keep any dog for more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.

(b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:

(1) "Owner" shall mean any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days; such

person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.

(2) "At large" means to be off the premises of the owner and not under the control of some person either by leash, cage or kennel, except that a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.

(3) "Dog" shall mean any canine, regardless of age or sex.

(4) "Cat" shall mean any feline, regardless of age or sex.

(5) "Neutered" as used herein as describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.

(6) "Animal" means mammals, reptiles and birds.

(7) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

(8) "Law Enforcement Officer" has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.

(9) "Farm Animal" means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.

(10) "Pet" means an animal kept and treated as a pet.

State Law Reference: Sections 174.05 through 174.10, Wis. Stats.

SEC. 7-1-2 RABIES VACCINATION REQUIRED FOR LICENSE.

(a) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the City of Montreal after the dog has reached four (4) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the City unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Section 95.21(2), Wis. Stats.

(b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the City stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the City.

(c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.

(d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable

material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.

(e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or to a dog securely confined indoors. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (a).

(f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.

(g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

SEC. 7-1-3 ISSUANCE OF DOG AND KENNEL LICENSES.

(a) **Dog Licenses.**

(1) It shall be unlawful for any person in the City of Montreal to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Section 174.05 through Section 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.

(2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.

(3) The minimum license tax under this Section shall be Two Dollars ($2.00) for spayed females or neutered males. The minimum fee for unspayed or unneutered animals shall be Five Dollars ($5.00). These amounts shall be reduced by one-half (1/2) if the animal became five (5) months of age after July 1 during the license year. The license year shall commence January 1 and end December 31.

(4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the City Clerk-Treasurer shall complete and issue to the owner a license for such dog containing all information required by state law. The City Clerk-Treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

(5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7-1-2(e).

(6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any City police or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.

(7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the City Clerk-Treasurer upon application therefor.

(b) **Kennel Licenses.**

(1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax of Thirty Dollars ($30.00) for a kennel of twelve (12) or fewer dogs and an additional Three Dollars ($3.00) for each dog in excess of twelve (12). Upon payment of the required kennel license tax and, if required by the Common Council, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the City Clerk-Treasurer shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel. Kennels may only be established in locations following issuance of a conditional use permit pursuant to the City Zoning Code.

(2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition or to a dog securely confined indoors. No dog bearing a kennel tag shall be permitted to stray or to be taken any where outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

State Law Reference: Section 174.053, Wis. Stats.

SEC. 7-1-4 LATE FEES.

The City Clerk-Treasurer shall assess and collect a late fee of Five Dollars ($5.00) from every owner of a dog five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

SEC. 7-1-5 RABIES QUARANTINE.

(a) **Dogs and Cats Confined.** If a district is quarantined for rabies, all dogs and cats within the City shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The City Clerk-Treasurer shall promptly post in at least three (3) public places in the City notices of quarantine.

(b) **Exemption of Vaccinated Dog or Cat from City Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the City quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.

(c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**

(1) Quarantine or sacrifice of dog or cat. An animal control or law enforcement officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(2) Sacrifice of other animals. An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

(d) **Quarantine of Dog or Cat.**

(1) Delivery to isolation facility or quarantine on premises of owner. An animal control or law enforcement officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.

(2) Health risk to humans. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

(3) Risk to animal health.

a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.

b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

(4) Sacrifice of a dog or cat exhibiting symptoms of rabies. If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected

to have bitten a person, the veterinarian shall notify the person or the person's physician.

(e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the City, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

(f) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the City, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

(g) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

SEC. 7-1-6 RESTRICTIONS ON KEEPING OF DOGS, CATS, FOWL AND OTHER ANIMALS.

(a) **Restrictions.** It shall be unlawful for any person within the City of Montreal to own, harbor or keep any dog or cat which:

(1) Habitually pursues any vehicle upon any public street, alley or highway in the City.

(2) Assaults or attacks any person as described in Subsection (b) or destroys property.

(3) Is at large within the limits of the City.

(4) Habitually barks or howls to the annoyance of any person or persons. (See Section 7-1-11.)

(5) Kills, wounds or worries any domestic animal.

(6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.

(7) In the case of a dog, is unlicensed.

(b) **Vicious Dogs and Animals.**

(1) No vicious dog shall be allowed off the premises of its owner unless muzzled or on a leash in charge of the owner or a member of the owner's immediate family over sixteen (16) years of age. For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises.

(2) No person shall harbor or permit to remain on his premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.

(3) In addition to the penalties provided for in Section 7-1-21, any person violating this Section shall pay a Ten Dollar ($10.00) impoundment fee to the City Treasurer, and the actual expenses and costs, including shelter, food, veterinary expenses, and expenses of impoundment and capture.

(c) **Animals Running at Large.**

(1) No person having in his possession or ownership any animal or fowl shall allow the same to run at large within the City. The owner of any animal, whether licensed or unlicensed, shall keep his animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or City Ordinance to be licensed shall be seized and impounded by an animal control or law enforcement officer.

(2) A dog or cat shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it.

(d) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Section 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.

SEC. 7-1-7 IMPOUNDMENT OF ANIMALS.

(a) **Animal Control Agency.**

(1) The City of Montreal may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.

(2) The City of Montreal does hereby delegate any such animal control agency the authority to act pursuant to the provisions of this Section.

(b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, any animal control or law enforcement officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of the City, assaults or attacks any person, is at large within the City, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding office must see or hear the violation of this Section or have in his possession a signed statement of a complaining witness alleging the facts regarding the violation.

(c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or animal control officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the City, giving a description of the animal, stating where it is impounded and the conditions for its release, after the officer has taken such animal into his possession. If within seven (7) days after such notice the owner does not claim such animal, the officer may

dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees. Possession of dogs or cats impounded under this Section may be obtained by paying Ten Dollars ($10.00) to the City Treasurer, plus the actual cost of boarding the animal for each day or fraction thereof the dog or cat has been so impounded. Owners of unlicensed dogs shall also obtain a dog license prior to release of an impounded animal. No animal shall be released from the pound without being properly licensed if so required by state law or City Ordinance.

(d) **Sale of Impounded Animals.** If the owner doesn't reclaim the animal within seven (7) days, the animal warden may sell the animal to any willing buyer.

(e) **City Not Liable for Impounding Animals.** The City and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

SEC. 7-1-8 ANIMALS RESTRICTED ON PUBLIC GROUNDS AND CEMETERIES.

(a) No dog or cat shall be permitted in any public playground, public park or swimming area within the City unless such dog or cat is entered in a contest or obedience class approved by the Common Council or is on a leash under control. Dogs and cats are prohibited from being in cemeteries. Every dog specially trained to lead blind persons shall be exempt from this Section.

(b) No horses are permitted in City parks and recreation areas.

SEC. 7-1-9 DUTY OF OWNER IN CASE OF DOG OR CAT BITE.

Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to the animal control officer and shall keep such dog or cat confined for not less than ten (10) days or for such period of time as the animal control officer shall direct. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement or humane officer upon demand for examination.

SEC. 7-1-10 INJURY TO PROPERTY BY ANIMALS.

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate or urinate thereon.

SEC. 7-1-11 BARKING DOGS OR CRYING CATS.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog,

animal or cat is considered to be in violation of this Section when two (2) formal, written complaints are filed with the animal control officer within a four (4) week period.

SEC. 7-1-12 PROHIBITED AND PROTECTED ANIMALS, FOWL, REPTILES AND INSECTS.

(a) **Protected Animals.**

(1) Possession and Sale of Protected Animals. It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt to buy, within the City any of the following animals, alive or dead, or any part or product thereof: all wild cats of the family felidae, polar bear (thalarctos maritimus), red wolf (canis niger), vicuna (vicugna vicugna), or alligator, caiman or crocodile of the order of crocodilia, gray or timber wolf (canis lupus), sea otter (enhydra lutris), Pacific ridley turtle (lepidochelys olivacea), Atlantic green turtle (chelonia mydas), Mexican ridley turtle (lepidochelys kempi).

(2) Compliance with Federal Regulations. It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).

(3) Regulating the Importation of Certain Birds. No person, firm or corporation shall import or cause to be imported into this City any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

(b) **Exceptions.** The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus.

(c) **Wild Animals; Prohibition on Keeping.** Except for state-licensed game farms, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the City any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the City any of the following animals, reptiles or insects:

(1) All poisonous animals and reptiles including rear-fang snakes.
(2) Apes: Chimpanzees (Pan); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); ans siamangs (Symphalangus).
(3) Baboons (Papoi, Mandrillus).
(4) Bears (Ursidae).
(5) Bison (Bison).

(6) Cheetahs (Acinonyx jubatus).
(7) Crocodilians (Crocodilia), thirty (30) inches in length or more.
(8) Constrictor snakes, six (6) feet in length or more.
(9) Coyotes (Canis latrans).
(10) Deer (Cervidae); includes all members of the deer family; for example, whitetailed deer, elk, antelope and moose.
(11) Game cocks and other fighting birds.
(12) Hyenas (Hyaenidae).
(13) Jaguars (Panthera onca).
(14) Leopards (Panthera pardus).
(15) Lions (Panthera leo).
(16) Lynxes (Lynx).
(17) Ostriches (Struthio).
(18) Pumas (Felis concolor); also known as cougars, mountain lions and panthers.
(19) Sharks (class Chondrichthyes).
(20) Snow leopards (Panthera uncia).
(21) Tigers (Panthera tigris).
(22) Wolves (Canis lupus).
(23) Poisonous insects.
(24) Except in properly zoned districts, horses, mules, ponies, donkeys, cows, pigs, goats, sheep, chickens, poultry or any animal raised for fur-bearing purposes unless otherwise permitted elsewhere in this Code.

(d) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of: a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; zoological gardens; if:
(1) Their location conforms to the provisions of the zoning ordinance of the City.
(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
(3) Animals are maintained in quarters so constructed as to prevent their escape.

SEC. 7-1-13 SALE OF RABBITS, CHICKS OR ARTIFICIALLY COLORED ANIMALS.

(a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.
(b) (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.
(2) No retailer, as defined in Sec. 100.30(2)(e), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.

State Law Reference: Section 951.10, Wis. Stats.

SEC. 7-1-14 PROVIDING PROPER FOOD AND DRINK TO CONFINED ANIMALS.

(a) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.
(b) The food shall be sufficient to maintain all animals in good health.
(c) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

State Law Reference: Section 951.13, Wis. Stats.

SEC. 7-1-15 PROVIDING PROPER SHELTER.

(a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
(b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
  (1) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.
  (2) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
(c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
  (1) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.
  (2) Shelter from inclement weather.
    a. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
    b. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
(d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
  (1) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
  (2) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
(e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

State Law Reference: Section 951.14, Wis. Stats.

SEC. 7-1-16 NEGLECTED OR ABANDONED ANIMALS.

(a) **Neglected or Abandoned Animals.**
(1) No person may abandon any animal.
(2) Any law enforcement or animal control officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary.
(3) In the event an animal is removed, sheltered or cared for as provided in Subsection (a)(2) above. the law enforcement or animal control officer removing, sheltering and/or caring for said animal shall notify the owner of said animal, personally or through the U.S. mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the City, giving a description of the animal, stating where it is sheltered, and the conditions for its release. If within seven (7) days after such notice the owner does not claim such animal, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being sheltered has bitten a person, the animal shall be retained in the Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of shelter fees. Specifically, possession of dogs or cats sheltered under this Section may be obtained by paying Ten Dollars ($10.00) to the City Treasurer, plus the actual cost of boarding the animal for each day or fraction thereof the dog or cat has been so sheltered, plus veterinary expenses. In the event an animal sheltered under this Section is not reclaimed by its owner, as provided herein, said owner shall reimburse the City for the actual cost of boarding the animal for each day or fraction thereof the dog or cat has been so sheltered, plus veterinary expenses, plus costs associated with disposal of said animal.
(4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
(5) Section 951.16, Investigation of Cruelty Complaints, and Section 951.17, Wis. Stats., Reimbursement for Expenses, are hereby adopted by reference and made a part of this Chapter.

(b) **Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the City or any animal control agency with whom the City has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

State Law Reference: Sections 951.15, 951.16 and 951.17, Wis. Stats.

SEC. 7-1-17 CRUELTY TO ANIMALS AND BIRDS PROHIBITED.

(a) **Acts of Cruelty Prohibited.** No person except a police officer or health or humane officer in the pursuit of his duties shall, within the City, shoot or kill

or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.

(b) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a City street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.

(c) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Secs. 961.14, 961.16, 961.18, 961.20 or 961.22, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.

(d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.

(e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

SEC. 7-1-18 LIMITATION ON NUMBER OF DOGS.

(a) **Purpose.** The keeping of a large number of dogs within the City for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs is, therefore, declared a public nuisance.

(b) **Definitions.**

(1) Dog. A dog means any canine, regardless of age or sex.

(2) Residential Lot. A residential lot means a parcel of land zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted, and under common ownership. For the purpose of this Section, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.

(c) **Number Limited.**

(1) No family shall own, harbor or keep in its possession more than three (3) dogs on any residentially zoned lot without the prior approval of the Common Council except that a litter of pups or a portion of a litter may be kept for not more than eight (8) weeks from birth. If more than one (1) family resides on a residential lot, then only a total of three (3) dogs shall be allowed on the residential lot unless the prior approval is obtained from the Common Council. For the purposes of this Section, the term "family" shall be defined as one (1) or more persons. Persons may

keep more than three (3) dogs only if they have first received a kennel license and a conditional use permit pursuant to the City Zoning Code.

(2) The above requirement may be waived with the approval of the Common Council or when a kennel license has been issued by the City. Such application for waiver shall first be made to the City Clerk-Treasurer who shall forward the request to the animal control officer. After review, the animal control officer shall make a recommendation to the Common Council prior to Council action on the matter.

SEC. 7-1-19 PROHIBITION ON PIT BULL TERRIERS.

(a) **Definitions.** "Pit Bull Terrier" as used herein is hereby defined as any Staffordshire Bull Terrier breed of dog or any mixed breed of dog which contains an element of its breeding, the breeding of Staffordshire Bull Terrier, American Staffordshire Terrier or American Pit Bull Terrier, as to be identifiable as partially of the breed commonly known as Pit Bull Terriers by a qualified veterinarian duly licensed as such by the State of Wisconsin.

(b) **Prohibition.** No person shall possess, own, keep or harbor a Pit Bull Terrier within the City of Montreal.

(c) **Penalty.**

(1) In addition to the penalties provided for in Section 7-1-21, any person violating this Section shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding and veterinary expenses necessitated by seizure of the dog for protection of the public and such other expenses required for elimination or storage of such dog.

(2) Any Montreal municipal officer or employee, any police officer, sheriff's deputy or other officer authorized by law may seize or arrange for the removal of any Pit Bull Terrier from the City of Montreal. If no arrangements are made by the owner of such animal for payment of such costs of seizure and impoundment or the removal of such animal from the City of Montreal within a period of five (5) days, then the City Mayor from the City of Montreal may arrange for such animal to be destroyed in a humane manner.

SEC. 7-1-20 ANIMAL FECES.

It shall be unlawful for any person to cause or permit any animal to be on property, public or private, not owned or possessed by such person unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person. This Section shall not apply to a person who is visually or physically handicapped.

SEC. 7-1-21 PENALTIES.

(a) Any person who violates Sections 7-1-1, 7-1-2, 7-1-3, 7-1-4, 7-1-5(a) or 7-1-20 of this Code of Ordinances shall be subject to a forfeiture of not less than Fifty

Dollars ($50.00) plus court costs and fees, and not more than Two Hundred Dollars ($200.00) plus court costs and fees, for the first offense, and not less than One Hundred Dollars ($100.00) plus court costs and fees, and not more than Four Hundred Dollars ($400.00) plus court costs and fees, for the second and subsequent offenses.

(b) Anyone who violates Section 7-1-5 [excluding 7-1-5(a)], or who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be subject to a forfeiture of not less than Five Hundred Dollars ($500.00) plus court costs and fees, and not more than One Thousand Dollars ($1,000.00) plus court costs and fees, for each offense.

(c) Anyone who violates Sections 7-1-6, 7-1-7, 7-1-8, 7-1-10, 7-1-11, 7-1-12, or 7-1-13 of this Code of Ordinances shall be subject to a forfeiture of not less than Fifty Dollars ($50.00) plus court costs and fees, and not more than Five Hundred Dollars ($500.00) plus court costs and fees, for the first offense, and not less than One Hundred Dollars ($100.00) plus court costs and fees, and not more than Five Hundred Dollars ($500.00) plus court costs and fees, for the second and subsequent offenses.

(d) Anyone who violates Section 7-1-9 of this Code of Ordinances shall be subject to a forfeiture of not less than Two Hundred Fifty Dollars ($250.00) plus court costs and fees, and not more than One Thousand Dollars ($1,000.00) plus court costs and fees.

(e) Anyone violates Sections 7-1-14, 7-1-15, 7-1-16, 7-1-17 or 7-1-18 of this Code of Ordinances shall be subject to a forfeiture of not less than One Hundred Dollars ($100.00) plus court costs and fees, and not more than Five Hundred Dollars ($500.00) plus court costs and fees. This Section shall also permit the City Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Chapter.

(f) Anyone who violates Section 7-1-19 of this Code of Ordinances shall be subject to a forfeiture of not less than Two Hundred Fifty Dollars ($250.00) plus court costs and fees, and not more than One Thousand Dollars ($1,000.00) plus court costs and fees. This Section shall also permit the City Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Chapter.

CHAPTER 2

Fermented Malt Beverages and Intoxicating Liquor

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ARTICLE A

Fermented Malt Beverages and Intoxicating Liquor

SEC. 7-2-1 STATE STATUTES ADOPTED.

The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Chapter in order to secure uniform statewide regulation of alcohol beverage control.

State Law Reference: Chapter 125, Wis. Stats.

SEC. 7-2-2 DEFINITIONS.

As used in this Chapter the terms "Alcoholic Beverages," "Intoxicating Liquors," "Sell," "Sold," "Sale," "Restaurant," "Club," "Retailer," "Person," "Fermented Malt Beverages," "Wholesalers," "Retailers," "Operators," and "Non-Intoxicating Beverages" shall have the meaning given them by Chapter 125, Wisconsin Statutes.

SEC. 7-2-3 LICENSE REQUIRED.

No person, firm or corporation shall vend, sell, deal or traffic in or have in his possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto, except as provided by Sections 125.16, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.

SEC. 7-2-4 CLASSES OF LICENSES.

(a) **Retail Class "A" Intoxicating Liquor License.** A retail Class "A" intoxicating liquor license, when issued by the City Clerk-Treasurer under the authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.

(b) **Retail Class "B" Intoxicating Liquor License.** A retail Class "B" intoxicating liquor license, when issued by the City Clerk-Treasurer under authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

(c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the City Clerk-Treasurer under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.

(d) **Class "B" Fermented Malt Beverage Retailer's License.** A Class "B" fermented malt beverage retailer's license, when issued by the City Clerk-Treasurer under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages.

(e) **Special Class "B" Fermented Malt Beverage Picnic License.**

(1) License. A special Class "B" picnic license, when issued by the City Clerk-Treasurer under authority of the Common Council, as provided for in Sec. 125.26(6), Wis. Stats., shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages or wine coolers at a particular picnic, post meeting, fair or similar gathering. Such license may be issued only to bona fide clubs, state, county or local fairs, associations or agricultural societies, lodges or societies that have been in existence for not less than six (6) months prior to the date of application for such license or to posts of ex-servicemen's organizations now or hereafter established. Such license is valid for dates as approved by the Common Council. Irrespective of other Sections of this Chapter, the Common Council is hereby authorized to issue a fermented malt beverage license to any local civic, or any local religious or any local not-for-profit organization pursuant to this Section.

(2) Application. Application for such license shall be signed by the president or corresponding officer of the society making such application and shall be filed with the City Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars ($200.00) and will be ineligible to apply for a special Class "B" license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Common Council at which the application will be considered. Such license shall be valid for no more than five (5) consecutive days. If the application is for a license to be used in a City park, the applicant shall specify the main point of sale facility.

(f) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the City Clerk-Treasurer under authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.

Cross Reference: Section 7-2-17.

SEC. 7-2-5 LICENSE FEES.

There shall be the following classes and denominations of licenses which, when issued by the City Clerk-Treasurer under the authority of the Common Council after payment of the fee hereinafter specified shall permit the holder to sell, deal or traffic in

intoxicating liquors or fermented malt beverages as provided in Sections 125.04(5), (6); 125.28(1)(a), (b), (d); 125.28(2); 125.31(2)(a); 125.22(1), (2), (4); 125.32(4)(a); 125.31(2)(b); 125.26(2); 125.04(6); 125.17; 125.68(2); 125.32(2); 125.51(2); 125.51(3); or 125.57, Wis. Stats.:

(a) Retail Class "A" Intoxicating Liquor License -- $100.00 annually or fraction thereof.
(b) Retail Class "B" Intoxicating Liquor License -- $50.00 annually.
(c) Class "A" Fermented Malt Beverage Retailer's License -- $10.00 annually.
(d) Class "B" Fermented Malt Beverage Retailer's License -- $100.00 per year or three-fourths (3/4) of that amount for a six (6) month period. Club license as defined in Section 125.32(4)(b), Wis. Stats., shall be issued for a fee of Ten Dollars ($10.00). Class "B" fermented malt beverage retailer's license for brewers shall be pursuant to Section 125.31(1)(a) and 125.06(1), Wis. Stats.
(e) Special Class "B" Fermented Malt Beverage Picnic License -- $10.00 per event.
(f) Wholesaler's License -- $25.00 annually or fractional part thereof.

SEC. 7-2-6 APPLICATION FOR LICENSE.

(a) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Sections 887.01 to 887.04, Wis. Stats., and shall be filed with the City Clerk-Treasurer not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
(b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
(c) **Publication.** The application shall be published once in the official City newspaper, and the costs of publication shall be paid by the applicant.
(d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
(e) **License Quotas.** No more than the number of licenses permitted under Chapter 125, Wis. Stats., shall be granted by the City.

SEC. 7-2-7 QUALIFICATIONS OF APPLICANTS AND PREMISES.

(a) **Residence Requirements.** A retail Class "A" or retail Class "B" fermented malt beverage or intoxicating liquor license shall be granted only to persons who are citizens of the United States and of Wisconsin.
(b) **Applicant to have Malt Beverage License.** No retail Class "B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
(c) **Right to Premises.** No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.
(d) **Age of Applicant.** No Class "A" or "B" licenses shall be granted to any underage person as defined by the Wisconsin Statutes.

(e) **Corporate Restrictions.**

(1) No license shall be granted to any corporation which does not comply with the provisions of Sec. 125.04(6), Wis. Stats., which does not have an agent eligible for a license under this Chapter or under state law, or which has more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation held by any person or persons not eligible for a license under this Chapter or under the state law.

(2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the City Clerk-Treasurer a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.

(3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Section 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.

(f) **Separate License Required for Each Place of Sale.**

(1) A separate license shall be required for each stand or place which is in direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.

(2) All sales under a Class A Alcoholic Beverage License shall be conducted from a separate building, or a room partitioned from other business conducted in the same building, with one (1) doorway only for service of the public, although there may be other doors for use of the management or an exit to comply with building code requirements.

(3) No minor shall be allowed to loiter on the separate premises from which sales under a Class A Alcoholic Beverage License shall be conducted, and the licensee shall conspicuously post signs to warn minors.

SEC. 7-2-8 INVESTIGATION.

The City Clerk-Treasurer shall notify the Chief of the Fire Department and Health Officer of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the City Clerk-Treasurer in writing, who shall forward to the Common Council, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused.

SEC. 7-2-9 APPROVAL OF APPLICATION.

(a) In determining the suitability of an applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness

of the location and premises proposed and generally the applicant's fitness for the trust to be reposed.

(b) No license shall be granted for operation on any premises or with any equipment for which taxes or assessments or other financial claims of the City are delinquent and unpaid.

(c) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the City.

SEC. 7-2-10 GRANTING OF LICENSE.

Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Common Council, the City Clerk-Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the City.

SEC. 7-2-11 TRANSFER AND LAPSE OF LICENSE.

(a) In accordance with the provisions of Section 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Common Council. An application for transfer shall be made on a form furnished by the City Clerk-Treasurer. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars ($10.00). Whenever a license is transferred, the City Clerk-Treasurer shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the City for reissuance of said license and the City, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.

(b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the City Clerk-Treasurer written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Common Council, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the City Clerk-Treasurer of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Common Council until the successor agent or another qualified agent is appointed and approved by the City and the Wisconsin Department of Revenue.

SEC. 7-2-12 NUMBERING OF LICENSE.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee. The City Clerk-Treasurer shall affix to the license his affidavit as provided by Sec. 125.04(4) of the Wisconsin Statutes.

SEC. 7-2-13 POSTING LICENSES; DEFACEMENT.

(a) Every person licensed in accordance with the provisions of this Chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.
(b) It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

SEC. 7-2-14 CONDITIONS OF LICENSE.

All retail Class "A" and "B" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the City applicable thereto.

(a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
(b) **Employment of Minors.** No retail Class "B" licenses shall employ any person under the age of eighteen (18), but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
(c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
(d) **Licensed Operator on Premises.** There shall be upon premises operated under a Class "B" license, at all times, the licensee, members of the licensee's immediately family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a Class "B" license unless he possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
(e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all Class "B" liquor licenses issued under this Chapter. No Class "B" license shall be issued unless the premises to be licensed conform to such rules and regulations.
(f) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
(g) **Gambling Prohibited.** No gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Ordinance or the laws of the State of Wisconsin.
(h) **Credit Prohibited.** No retail Class "A" or Class "B" liquor or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order

or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.

(i) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee or permittee under this Chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.

(j) **Improper Exhibitions.** It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:

(1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(3) Exposes any portion of the female breast at or below the areola thereof; or

(4) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

Annotation: See Colonnade Catering Corp. v. United States, 397 U.S. 72, 90 S. Ct. 774 (1970); and State v. Erickson, 101 Wis. 2d 224 (1981), for guidelines for warrantless searches of licensed premises.

SEC. 7-2-15 CLOSING HOURS.

Closing hours shall be established in conformance with Section 125.32(3), Wis. Stats., and further restricted as follows:

(a) **Class "B" Licenses.**

(1) No premises for which a retail Class "B" liquor and fermented malt beverage license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.

(2) Hotels and restaurants, whose principal business is the furnishing of food or lodging to patrons shall be permitted to remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.

(3) The licensee or permittee and one (1) employee shall be permitted to check out receipts, check the licensed premises for security and do minor cleaning during closed hours. For purposes of this Subsection, entertainers are not considered employees for off-hour work purposes. Under no circumstances shall the consumption of alcohol beverages be permitted after closing hours. Commercial janitorial service personnel shall be allowed to enter the licensed premises for the purpose of cleaning during closed hours. The premises shall be well lighted during cleanup. Prior approval must be requested and granted by the Common Council or its designee for any variance of the above exigent circumstances.

(b) **Class "A" Licenses.** Class "A" licensed premises may remain open for the conduct of their regular business daily between the hours of 8:00 a.m. and 9:00 p.m.

(c) **Modification of Closing Hours.** Closing hours may be modified for specific events by a majority vote of the Common Council.

SEC. 7-2-16 REVOCATION AND SUSPENSION OF LICENSES; NON-RENEWAL.

(a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 11, Chapter 5, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.

(b) **Abandonment of Premises.** Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The loss or non-use of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Common Council. All persons issued a license to sell alcohol beverages in the City for which a quota exists limiting the number of such licenses that may be issued by the City shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.

(c) **License Revocation or Suspension.** License revocation and suspension proceedings shall be as prescribed by Chapter 125, Wis. Stats.

(d) **Other Provisions.** Any license issued pursuant to this Chapter shall be subject to such further regulations and restrictions as may be imposed by the Common Council by amendment to this Section or by the enactment of new ordinances. If any licenses shall fail or neglect to meet the requirements imposed by such new restrictions and regulations his license may be revoked in accordance with this Section. In case of revocation of any license or any violation of any provision of this Chapter in accordance with this Section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

SEC. 7-2-17 THROUGH SEC. 7-2-19 RESERVED FOR FUTURE USE.

ARTICLE B

Operator's License

SEC. 7-2-20 OPERATOR'S LICENSE REQUIRED.

There shall be upon the premises operated under a Class "A" or Class "B" intoxicating liquor license or Class "B" fermented malt beverage license at all times the licensee or some other person who shall have an operator's license and who shall be responsible for the acts of all persons serving or selling any intoxicating liquor or fermented malt beverages to customers. No person other than the licensee shall serve or sell fermented malt beverages or intoxicating liquor in any place operated under the Class "A" or Class "B" licenses unless he shall possess an operator's license or unless he shall be under the immediate supervision of the licensee or a person holding an operator's license who shall be upon the premises at the time of such service.

State Law Reference: Section 125.17, Wis. Stats.

SEC. 7-2-21 PROCEDURE UPON APPLICATION.

The Common Council may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the City Clerk-Treasurer only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the City.

SEC. 7-2-22 DURATION.

Licenses issued under the provisions of this Chapter shall be valid for a period of one (1) year and shall expire on the thirtieth (30th) day of June.

SEC. 7-2-23 OPERATOR'S LICENSE FEE; PROVISIONAL LICENSE.

(a) **Fee.** The fee for an operator's license shall be Five Dollars ($5.00) per year.

(b) **Provisional License.** The City Clerk-Treasurer may issue provisional operator's licenses in accordance with Section 125.17(5), Wis. Stats., at a cost of Ten Dollars ($10.00) per license so issued. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. A provisional license may not be issued to any person who has been denied an operator's license by the Common Council or who has had his operator's license revoked or suspended within the preceding twelve (12) months. The City Clerk-Treasurer shall provide an appropriate application form to be completed in full by the applicant. The City Clerk-Treasurer may revoke the provisional license issued if he discovers that the holder of the license made a false statement on the application.

SEC. 7-2-24 ISSUANCE.

After the Common Council approves the granting of an operator's license, the City Clerk-Treasurer shall issue the license. Such licenses shall be issued and numbered in

the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.

SEC. 7-2-25 DISPLAY OF LICENSE.

Each license issued under the provisions of this Chapter shall be posted on the premises whenever the operator dispenses beverages or possessed by the licensed operator in the form of a wallet card.

SEC. 7-2-26 REVOCATION OF OPERATOR'S LICENSE.

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license.

SEC. 7-2-27 THROUGH SEC. 7-2-29 RESERVED FOR FUTURE USE.

ARTICLE C

Penalties

SEC. 7-2-30 PENALTIES.

(a) Forfeitures for violations of Sections 125.07(1)-(5) and 125.09(2) of the Wisconsin Statutes, adopted by reference in Section 7-2-1 of the Code of Ordinances of the City of Montreal, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including any variations or increases for subsequent offenses.

(b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the City of Montreal, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the City of Montreal.

(c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

CHAPTER 3

Pharmacists' Permits; Cigarette License

7-3-1 Pharmacists' Permits
7-3-2 Cigarette License

SEC. 7-3-1 PHARMACISTS' PERMITS.

(a) A Pharmacist's Permit, when issued by the City Clerk-Treasurer in and upon compliance with this Code and the Wisconsin Statutes, shall entitle and authorize the holder thereof to possess, sell or offer for sale intoxicating liquors as defined by Section 125.02, Wis. Stats., in quantities less than four (4) liters for medicinal or scientific purposes only and not to be drunk on the premises. Said sales shall be made in compliance with Section 125.57, Wis. Stats.

(b) Upon the approval of the application by the Common Council, the City Clerk-Treasurer shall, upon filing by the applicant of a receipt showing the payment to the City of a permit fee of Ten Dollars ($10.00), issue to the applicant a permit.

(c) Each permit shall be numbered in the order in which issued and shall specifically state the premises for which issued, the fee paid and the name of the licensee.

State Law Reference: Section 125.57, Wis. Stats.

SEC. 7-3-2 CIGARETTE LICENSE.

(a) **License Required.** No person, firm or corporation shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.

(b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the City Clerk-Treasurer a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the City Clerk-Treasurer and shall name the licensee and the place wherein he is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the City Clerk-Treasurer a license fee of Five Dollars ($5.00).

(c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the City Clerk-Treasurer. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

State Law Reference: Section 134.65, Wis. Stats.

CHAPTER 4

Direct Sellers

7-4-1 Registration Required
7-4-2 Definitions
7-4-3 Exemptions
7-4-4 Registration
7-4-5 Investigation
7-4-6 Appeal
7-4-7 Regulation of Direct Sellers
7-4-8 Revocation of Registration

SEC. 7-4-1 REGISTRATION REQUIRED.

It shall be unlawful for any direct seller to engage in direct sales within the City of Montreal without being registered for that purpose as provided herein.

SEC. 7-4-2 DEFINITIONS.

In this Chapter:

(a) **Direct Seller** means any individual who, for him/herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(b) **Permanent Merchant** means a direct seller who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
   (1) Has continuously operated an established place of business in this City; or
   (2) Has continuously resided in this City and now does business from his/her residence.

(c) **Goods** shall include personal property of any kind and shall include goods provided incidental to services offered or sold.

(d) **Charitable Organization** shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, but shall not include religious organizations.

(e) **Clerk** shall mean the City of Montreal Clerk-Treasurer.

(f) **Person** shall mean all humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

SEC. 7-4-3 EXEMPTIONS.

The following shall be exempt from all provisions of this Chapter:

(a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;

(b) Any person selling goods at wholesale to dealers in such goods;

(c) Any person selling agricultural products which such person has grown;

(d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business;
(e) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, said person;
(f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
(g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;
(h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
(i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the City Clerk-Treasurer proof that such charitable organization is registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter; it is intended to include any employee, officer, agent or member of any local charitable organization having a local group or association.
(j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the City Clerk-Treasurer that such person is a transient merchant, provided that there is submitted to the City Clerk-Treasurer proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this City for at least one (1) year prior to the date complaint was made.

SEC. 7-4-4 REGISTRATION.

(a) **Registration Information.** Applicants for registration must complete and return to the City Clerk-Treasurer a registration form furnished by the Clerk-Treasurer which shall require the following information:
(1) Name, permanent address and telephone number, and temporary address, if any;
(2) Height, weight, color of hair and eyes, and date of birth;
(3) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
(4) Temporary address and telephone number from which business will be conducted, if any;
(5) Nature of business to be conducted and a brief description of the goods offered and any services offered;
(6) Proposed method of delivery of goods, if applicable;
(7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;
(8) Last cities, villages, town, not to exceed three (3), where applicant conducted similar business just prior to making this registration.
(9) Place where applicant can be contacted for at least seven (7) days after leaving this City;
(10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within

the last five (5) years, the nature of the offence and the place of conviction.

(b) **Identification and Certification.** Applicants shall present to the City Clerk-Treasurer for examination:
   (1) A driver's license or some other proof of identity as may be reasonably required;
   (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
   (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.

(c) **Late Registration Fee.**
   (1) At the time the registration is returned, a Five Dollar ($5.00) fee shall be paid to the City Clerk-Treasurer to cover the cost of processing said registration. Each and every member of a group must file a separate registration form.
   (2) The applicant shall sign a statement appointing the City Clerk-Treasurer his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
   (3) Upon payment of said fee and the signing of said statement, the City Clerk-Treasurer shall register the applicant as a direct seller and date the entry. Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Sec. 7-4-5(b) below.

SEC. 7-4-5 INVESTIGATION.

(a) Upon receipt of each application, the City Clerk-Treasurer may refer it immediately to the Iron County Sheriff's Department for an investigation of the statements made in such registration.

(b) The City Clerk-Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 7-4-4(b) above.

SEC. 7-4-6 APPEAL.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Common Council or, if none has been adopted, under the provisions of Secs. 68.07 through 68.16, Wis. Stats.

SEC. 7-4-7 REGULATION OF DIRECT SELLERS.

(a) **Prohibited Practices.**

(1) A direct seller shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

(2) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

(3) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

(4) No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.

(5) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) **Disclosure Requirements.**

(1) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell.

(2) If any sale of goods is made by a direct seller or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars ($25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.

(3) If the direct seller takes a sales order for the later delivery of goods, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

SEC. 7-4-8 REVOCATION OF REGISTRATION.

(a) Registration may be revoked by the Common Council after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or

ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

(b) Written notice of the hearing shall be served personally on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

CHAPTER 5

Mobile Homes

7-5-1 Monthly Parking Fee; Limitations on Parking

SEC. 7-5-1 MONTHLY PARKING FEE; LIMITATIONS ON PARKING.

(a) There is hereby imposed on each owner of a nonexempt, occupied mobile home in the City of Montreal a monthly parking fee as determined in accordance with Section 66.058(3) of the Wisconsin Statutes which is hereby adopted by reference and made part of this Chapter as if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile homeowner. Licensees shall pay to the City Clerk-Treasurer such parking permit fees on or before the 10th day of the month following the month for which such fees are due in accordance with the terms of this Chapter and such regulations as the City Clerk-Treasurer may reasonably promulgate.

(1) Licensees of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the City Clerk-Treasurer and Assessor on such homes added to their park or land within five (5) days after arrival of such home on forms furnished by the City Clerk-Treasurer in accordance with Sec. 66.058(3)(c) and (e) of the Wisconsin Statutes.

(2) Occupants or owners of non-exempt mobile homes parked outside of a mobile home park shall remit such fees directly to the City Clerk-Treasurer as provided in Subsection (a). It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each occupied nonexempt mobile home therein and to remit such fees to the City Clerk-Treasurer as provided in Subsection (a).

(b) Owners of nonexempt, occupied mobile homes, upon receipt of notice from the City Clerk-Treasurer of their liability for the monthly parking permit fee, shall remit to the City Clerk-Treasurer a cash deposit of Twenty-five Dollars ($25.00) to guarantee payment of such fees when due to the City. It shall be the full and complete responsibility of the licensees of a mobile home park to collect such cash deposits from each occupied, nonexempt mobile home therein and to remit such deposits to the City Clerk-Treasurer. Upon receipt of a notice from the owner or licensee that the nonexempt, occupied mobile home has been or is about to be removed from the City, the City Clerk-Treasurer shall apply said cash deposit to reduce any monthly parking permit fees for which said owner is liable and refund the balance, if any, to said owner.

(c) It shall be unlawful for any person to park a mobile home outside a mobile home park in the City of Montreal.

State Law Reference: Sec. 66.058, Wis. Stats.

CHAPTER 6

Regulation and Licensing of Fireworks

7-6-1 Regulation of Fireworks

SEC. 7-6-1 REGULATION OF FIREWORKS

(a) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
(1) Fuel or a lubricant.
(2) A firearm cartridge or shotgun shell.
(3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
(4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
(5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
(6) A toy snake which contains no mercury.
(7) A model rocket engine.
(8) Tobacco and a tobacco product.
(9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
(10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
(11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
(12) A device that emits smoke with no external flame and does not leave the ground.
(13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
(14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.

(b) **Sale.** No person may sell or possess with intent to sell fireworks, except:
(1) To a person holding a permit under Subsection (c)(3);
(2) To a municipality; or
(3) For a purpose specified under Subsection (c)(2)b-f.

(c) **Use.**
(1) Permit Required. No person may possess or use fireworks without a user's permit from the Mayor or from an official or employee of the City as designated by the Common Council. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public.

(2) Permit Exceptions. Subparagraph (c)(1) above does not apply to:
   a. The City, except that City fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
   b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Industry, Labor and Human Relations.
   c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
   d. The possession or use of explosive or combustible materials in any manufacturing process.
   e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
   f. A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.

(3) Who May Obtain Permit. A permit under this Subsection may be issued only to the following:
   a. A public authority.
   b. A fair association.
   c. An amusement park.
   d. A park board.
   e. A civic organization.
   f. An agricultural producer for the protection of crops from predatory birds or animals.

(4) Crop Protection Signs. A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(5) Bond. The Mayor issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the City, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the officer of the Clerk-Treasurer.

(6) Required Information for Permit. A permit under this Subsection shall specify all of the following:
   a. The name and address of the permit holder.
   b. The date on and after which fireworks may be purchased.
   c. The kind and quantity of fireworks which may be purchased.
   d. The date and location of permitted use.
   e. Other special conditions prescribed by ordinance.

(7) Copy of Permit. A copy of a permit under this Subsection shall be given to the Fire Chief at least two (2) days before the date of authorized use.

(8) Minors Prohibited. A permit under this Subsection may not be issued to a minor.

(d) **Storage and Handling.**

(1) Fire Extinguishers Required. No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.

(2) Smoking Prohibited. No person may smoke where fireworks are stored or handled.

(3) Fire Chief to be Notified. A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.

(4) Storage Distance. No wholesaler, dealer or jobber may store fireworks within five hundred (500) feet of a dwelling.

(5) Restrictions on Storage. No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.

(e) **Parental Liability.** A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

State Law Reference: Section 101(1)(j), Wis. Stats.

CHAPTER 7

Licensees to Pay Local Claims; Appellate Procedures

7-7-1 Licensees Required To Pay Local Taxes, Assessments and Claims; Appellate Procedures

SEC. 7-7-1 LICENSEES REQUIRED TO PAY LOCAL TAXES, ASSESSMENTS AND CLAIMS.

(a) **Payment of Claims as Condition of License.** The City shall not issue or renew any license to transact any business within the City of Montreal:
   (1) For any purposes for which taxes, assessments or other claims of the City are delinquent and unpaid.
   (2) For any person who is delinquent in payment:
      a. Of any taxes, assessments or other claims owed the City; or
      b. Of any forfeiture resulting from a violation of any City Ordinance.

(b) **Exception.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapters 1 and 5.

(c) **Applicability.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.

(d) **Appeals; Notice and Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
   (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Section 125.12, Wis. Stats., as amended from time to time.
   (2) With respect to licenses other than those described in Subsection (a) herein, the Common Council or its assignee shall notify the applicant in writing of the City's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Common Council. If the applicant shall fail to appear before the Council on the date indicated on the notice, the Council shall deny the application for renewal. If the applicant appears before the Council on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Common Council shall conduct a hearing with respect to the matter. At the hearing, both the City and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Common Council determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

(e) **Other License Denial Appeals.** Where an individual, business or corporation wishes to appeal the Clerk-Treasurer's decision not to issue a license or permit under this Title on grounds other than those specified in Subsections (a) through (d) above, the applicant may file a request in writing with the Clerk-Treasurer that the matter be referred to the Common Council. A public hearing shall be scheduled within fourteen (14) calendar days by the Common Council. All parties

may be represented by counsel. The Council shall consider all relevant information and shall render a decision which shall be binding.

TITLE 8

Health and Sanitation

Chapter 1 Health and Sanitation
Chapter 2 Pollution Abatement
Chapter 3 Refuse Disposal and Collection

CHAPTER 1

Health and Sanitation

8-1-1 Rules and Regulations
8-1-2 Health Nuisances; Abatement of
8-1-3 Keeping of Livestock
8-1-4 Deposit of Deleterious Substances Prohibited
8-1-5 Destruction of Noxious Weeds
8-1-6 Regulation of Natural Lawns
8-1-7 Regulation of Length of Lawn and Grasses

SEC. 8-1-1 RULES AND REGULATIONS.

The Common Council, acting as Board of Health, may make reasonable and general rules for the enforcement of the provisions of this Chapter and for the prevention of the creation of health nuisances and the protection of the public health and welfare and may, where appropriate, require the issuance of licenses and permits. All such regulations shall have the same effect as ordinances, and any person violating any of such regulations and any lawful order of the Board shall be subject to the general penalty provided for in this Code.

SEC. 8-1-2 HEALTH NUISANCES; ABATEMENT OF.

(a) **Defined.** A health nuisance is any source of filth or cause of sickness.
(b) **Duty to Abate.** The Board of Health shall abate health nuisances pursuant to Sec. 146.14, Wis. Stats., which is adopted by reference and made a part of this Section.

State Law Reference: Sec. 146.14, Wis. Stats.

SEC. 8-1-3 KEEPING OF LIVESTOCK.

(a) **Sanitary Requirements.** All structures, pens, buildings, stables, coops or yards wherein animals or fowl are kept shall be maintained in a clean and sanitary condition, free of rodents, vermin and objectionable odors, and shall only be kept in properly zoned areas.

(b) **Animals Excluded From Food Handling Establishments.** No person shall take or permit to remain any dog, cat or other live animal on or upon any premises where food is sold, offered for sale or processed for consumption by the general public.

SEC. 8-1-4 DEPOSIT OF DELETERIOUS SUBSTANCES PROHIBITED.

No person shall deposit or cause to be deposited in any public street or on any public ground or on any private property not his own any refuse, garbage, litter, waste material or liquid or any other objectionable material or liquid. When any such material is placed on the person's own private property, it shall be properly enclosed and covered so as to prevent the same from becoming a public nuisance.

SEC. 8-1-5 DESTRUCTION OF NOXIOUS WEEDS.

(a) The City Clerk-Treasurer shall annually on or before May 15th publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the City which he owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.

(b) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the City shall give five (5) days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Sec. 66.96 of the Wisconsin Statutes. In case the owner or occupant shall further neglect to comply within such five (5) day notice, then the Weed Commissioner shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.

(c) As provided for in Sec. 66.96(2), Wis. Stats., the City shall require that all noxious weeds shall be destroyed prior to the time in which such plants would mature to the bloom or flower state. The growth of noxious weeds in excess of eight (8) inches in height from the ground surface shall be prohibited within the City corporate limits. Noxious weeds shall include any weed, grass or similar plant growth which, if allowed to pollinate, would cause or produce hayfever in human beings or would cause a skin rash through contact with the skin. Noxious weeds, as defined in this Section and in Section 8-1-7, shall include but not be limited to the following:

Cirsium Arvense (Canada Thistle)
Ambrosia artemisiifolia (Common Ragweed)
Ambrosia trifida (Great Ragweed)
Euphorbia esula (Leafy Spurge)
Convolvulus arvensis (Creeping Jenny) (Field Bind Weed)
Tragopogon dubius (Goat's Beard)
Rhus radicans (Poison Ivy)
Cirsium vulgaries (Bull Thistle)
Pastinaca sativa (Wild Parsnip)
Arctium minus (Burdock)

Xanthium strumarium (Cocklebur)
Amaranthus retroflexus (Pigweed)
Chenopodium album (Common Lambsquarter)
Rumex Crispus (Curled Dock)
Cannabis sativa (Hemp)
Plantago lancellata (English Plantain)

Noxious grasses, as defined in this Section and in Section 8-1-7, shall include but not be limited to the following:

Agrostia alba (Redtop)
Dactylis glomerata (Orchard)
Phleum pratensis (Timothy)
Poa pratensis (Kentucky Blue)
Sorghum halepense (Johnson)
Setaria (Foxtail)

Noxious weeds are also the following plants and other rank growth:

Ragweed
Thistles
Smartweed
Dandelions (over 10 inches in height)
Milkweed (over 10 inches in height)

State Law Reference: Sec. 66.96, Wis. Stats.

SEC. 8-1-6 REGULATION OF NATURAL LAWNS.

(a) **Natural Lawns Defined.** Natural lawn as used in this Section shall include common species of grass and wild flowers native to North America which are designed and purposely cultivated to exceed eight (8) inches in height from the ground. Specifically excluded in natural lawns are the noxious grasses and weeds identified in Section 8-1-5 of this Chapter. The growth of a natural lawn in excess of eight (8) inches in height from the ground surface shall be prohibited within the City corporate limits unless a Natural Lawn Management Plan is approved and a permit is issued by the City as set forth in this Section. Natural lawns shall not contain litter or debris and shall not harbor undesirable wildlife.

(b) **Natural Lawn Management Plan Defined.**

(1) Natural Lawn Management Plan as used in this Section shall mean a written plan relating to the management and maintenance of a lawn which contains a legal description of lawn upon which the planted grass will exceed eight (8) inches in length, a statement of intent and purpose for the lawn, a detailed description of the vegetational types, plants and plant succession involved, and the specific management and maintenance techniques to be employed.

(2) Property owners who wish to plant and cultivate a natural lawn must submit their written plan and related information on the form provided by the City. "Property Owner" shall be defined to include the legal title holder and/or the beneficial owner of any such lot according to most current City records. Natural Lawn Management Plans shall only indicate the planting and cultivating of natural lawns on property legally owned by

the property owner. Applicants are strictly prohibited from developing a natural lawn on any City-owned property including street rights-of-way. This shall include at a minimum property located between the sidewalk and the street or a strip not less than ten (10) feet adjacent to the street where there is no sidewalk whether the area is under public or private ownership. In addition, natural lawns shall not be permitted within ten (10) feet of the abutting property owner's property unless waived in writing by the abutting property owner on the side so affected. Such waiver is to be affixed to the Lawn Management Plan.

(3) Any subsequent property owner who abuts an approved natural lawn may revoke the waiver thereby requiring the owner of the natural lawn to remove the natural lawn that is located in the ten (10) foot section abutting the neighboring property owner. Such revocation shall be put in writing and presented to the City Clerk-Treasurer by the subsequent abutting property owner. Upon receiving the written request to revoke the original waiver, the Common Council shall contact the owner of the approved natural lawn and direct the owner to remove the natural lawn located in the ten (10) foot section abutting the neighboring property owner. The Common Council shall revise the approved Natural Lawn Management Permit accordingly. The owner of the approved natural lawn shall be required to remove the ten (10) foot section abutting the neighboring property owner within twenty (20) days of receipt of the written notification from the City provided the notification is received sometime between May 1 and November 1. Property owners who receive notification from the City between November 1 and April 30 shall be required to remove the ten (10) foot section abutting the neighboring property owner no later than May 20 following receipt of the notification.

(c) **Application Process.**

(1) Property owners interested in applying for permission to establish a natural lawn shall obtain and complete an application form available from the City Clerk-Treasurer. The completed application shall include a Natural Lawn Management Plan. Upon submitting a completed application, a Twenty-five Dollar ($25.00) non-refundable filing fee will be assessed by the City. Upon receiving payment, copies of the completed application shall be mailed by the City to each of the owners of record, as listed in the Office of the City Assessor, who are owners of the property situated wholly or in part within three hundred (300) feet of the boundaries of the properties for which the application is made. If within fifteen (15) calendar days of mailing the copies of the complete application to the neighboring property owners the City receives written objections from fifty-one percent (51%) or more of the neighboring property owners, the City Clerk-Treasurer shall immediately deny the application. Neighboring property owners shall be defined as all those property owners who are located within three hundred (300) feet of the proposed natural lawn site.

(2) If the property owner's application is in full compliance with the Natural Lawn Management Plan requirements and less than fifty-one percent (51%) of the neighboring property owners provide written objections, the City Clerk-Treasurer shall issue permission to install a natural lawn.

(d) **Application For Appeal.** The property owner may appeal the Clerk-Treasurer's decision to deny the natural lawn permit request to the Common Council at an open meeting. All applications for appeal shall be submitted within fifteen (15) calendar days of the notice of denial of the Natural Lawn Management Plan. The decision rendered by the Common Council shall be final and binding.

(e) **Safety Precautions For Natural Grass Areas.**

(1) When, in the opinion of the Fire Chief, the presence of a natural lawn may constitute a fire or safety hazard due to weather and/or other conditions, the Fire Chief may order the cutting of natural lawns to a safe condition. As a condition of receiving approval of the natural lawn permit, the property owner shall be required to cut the natural lawn within the three (3) days upon receiving written direction from the Fire Chief.

(2) Natural lawns shall not be removed through the process of burning unless stated and approved as one of the management and maintenance techniques in the Lawn Management Plan. The Fire Chief shall review all requests to burn natural lawns and shall determine if circumstances are correct and all applicable requirements have been fulfilled to insure public safety. Burning of natural lawns shall be strictly prohibited unless a written permit to burn is issued by the Fire Chief. The Fire Chief shall establish a written list of requirements for considering each request to burn natural lawns, thereby insuring the public safety. In addition, the property owner requesting permission to burn the natural lawn shall produce evidence of property damage and liability insurance identifying the City as a party insured. A minimum amount of acceptable insurance shall be Three Hundred Thousand Dollars ($300,000.00).

(f) **Revocation Of An Approved Natural Lawn Management Plan Permit.** The Mayor, upon the recommendation of the Weed Commissioner, shall have the authority to revoke an approved Natural Lawn Management Plan Permit if the owner fails to maintain the natural lawn or comply with the provisions set forth in this Section. Notice of intent to revoke an approved Natural Lawn Management Plan Permit shall be appealable to the Common Council. All applications for appeal shall be submitted within fifteen (15) calendar days of receipt of the written Notice of Intent to revoke the approved Natural Lawn Management Plan. Failure to file an application for appeal within the fifteen (15) calendar days shall result in the revoking of the Natural Lawn Management Plan Permit. All written applications for appeal filed within the fifteen (15) calendar day requirement shall be reviewed by the Common Council in an open meeting. The decision rendered by the Common Council shall be final and binding.

(g) **Public Nuisance Defined – Abatement After Notice.**

(1) The growth of a natural lawn as defined in this Section shall be considered a public nuisance unless a Natural Lawn Management Plan has been filed and approved and a permit is issued by the City as set forth in this Section. Violators shall be served with a notice of public nuisance by certified mail to the last-known mailing address of the property owner.

(2) If the person so served with a notice of public nuisance violation does not abate the nuisance within ten (10) days, the Enforcement Officer may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to and paid by such property owner. Notice of the bill for abatement of the public nuisance shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by State statute.

(3) The failure of the City Clerk-Treasurer to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the City expense on the tax rolls for unpaid bills for abating the public nuisance as provided for in this Section.

(h) **Penalty.**

(1) Any person, firm or corporation which does not abate the nuisance within the required time period or who otherwise violates the provisions of this Section shall be subject to the general penalty found in Section 1-1-7.

(2) In addition to any penalties herein provided, the City may issue stop work orders upon owners of lots where work is unfinished under a previously issued building permit for any violation of this Section.

SEC. 8-1-7 REGULATION OF LENGTH OF LAWN AND GRASSES.

(a) **Purpose.** This Section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the City.

(b) **Public Nuisance Declared.** The Common Council finds that lawns, grasses and noxious weeds on lots or parcels of land which exceed nine (9) inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomforting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interferes with the public convenience and adversely affects property values of other land within the City. For that reason, any lawn, grass or weed on a lot or other parcel of land which exceeds nine (9) inches in length is hereby declared to be a public nuisance, except for property located in a designated floodplain area and/or wetland area, where the lawn, grass or weed is part of a natural lawn approved pursuant to Section 8-1-6 above or where the property is zoned residential.

(c) **Nuisances Prohibited.** No person, firm or corporation shall permit any public nuisance as defined in Subsection (b) above to remain on any premises owned or controlled by said person, firm or corporation within the City.

(d) **Inspection.** The Weed Commissioner or his/her designee shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance as defined in Subsection (b) exists.

(e) **Notice to Abate Nuisance.** If the Weed Commissioner shall determine with reasonable certainty that any public nuisance as defined in Subsection (b) above exists, the Weed Commissioner shall immediately cause written notice to be served upon the owner or occupant of the land upon which the public nuisance exists, either personally or via mail, sent to the last known address of the owner or occupant, or by affixing said notice to any building or dwelling located upon said land, directing the owner or occupant to mow or cut the lot grass or lawn so as to conform with this Section and Section 8-1-5, and advising the owner or occupant that, if said action is not taken by the owner or occupant within five (5) days of the date of the notice, the City shall cause the lot grass or lawn to be cut or mowed so as to conform with this Section and Section 8-1-5, at the expense of the owner.

(f) **City's Option to Abate Nuisance.** In any case wherein the owner or occupant or person in charge of the property shall fail to cut or mow the lawn, weeds or grasses constituting a nuisance so as to conform with this Section and Section 8-1-5, the Weed Commissioner or his/her designee may elect to cut or mow said lawn, grass or weeds, as follows:

(1) The written notice required in Subsection (e) shall inform the owner or occupant that, in the event the owner or occupant fails to abate the nuisance within the prescribed time, the City shall abate the same and the

cost of said abatement shall be assessed to the property owner as a special charge.

(2) The Weed Commissioner shall cause all grass and weeds to be cut or mowed from the subject property and shall charge the expenses of so doing at a rate as established by resolution by the Common Council. The charges shall be set forth in a statement to the City Clerk who, in turn, shall mail the same to the owner of the subject property. If said statement is not paid in full within sixty (60) days thereafter, the City Clerk shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate, or as provided under Sec. 66.615(3)(f), Wis. Stats.

(g) **Due Process Hearing.**

(1) If the owner or occupant believes that the owner's or occupant's grasses or weeds are not a nuisance, the owner or occupant may request hearing before the Common Council. The request for said hearing must be made in writing to the City Clerk's office within five (5) days of the date of the Weed Commissioner's notice. Upon application for the hearing, the property owner must deposit a Twenty-five Dollar ($25.00) bond. If a decision is rendered in the property owner's favor, the Twenty-five Dollar ($25.00) bond will be returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited. When a hearing is requested as permitted herein, said hearing shall be held within seven (7) days from the date of the City Clerk's receipt of the request for hearing. The property in question shall not be cut or mowed by the City or its designee until such time as the hearing is held by the Common Council. At the hearing, the owner or occupant may appear in person or by the owner's or occupant's attorney, may present witnesses in his/her own behalf and may cross-examine witnesses presented by the City. At the close of the hearing, the Common Council shall make its determination in writing specifying its findings, facts, and conclusions. If the Common Council determines that a public nuisance exists, the Council shall order the Weed Commissioner to mow or cut the property in question unless the property has been cut or mowed by the owner or occupant so as to conform with this Section and Section 8-1-5 within twenty-four (24) hours of the Council's decision. If the owner or occupant does not abate the nuisance within said twenty-four (24) hour period, the Weed Commissioner shall cause the same nuisance to be abated and the cost of abatement assessed as provided in Subsection (f)(2), above.

(2) If, upon receipt of a statement from the City Clerk, pursuant to Subsection (f)(2) above, for the expenses of abating a nuisance upon a lot or property, the owner or occupant believes that the owner's or occupant's grasses or weeds were not a nuisance, the owner or occupant may request a hearing before the Common Council. The request for said hearing must be made in writing to the City Clerk's office within ten (10) days of the date of the statement from the City Clerk. Upon application for the hearing, the property owner must deposit a Twenty-five Dollar ($25.00) bond. If a decision is rendered in the property owner's favor, the Twenty-five Dollar ($25.00) bond will be returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited. When a hearing is requested as permitted herein, said hearing shall be held within thirty (30)

days from the date of the City Clerk's receipt of the request for hearing. At the hearing, the owner or occupant may appear in person or by the owner's or occupant's attorney, may present witnesses in his/her own behalf and may cross-examine witnesses presented by the City. At the close of the hearing, the Common Council shall make its determination in writing specifying its findings, facts, and conclusions. If the Common Council determines that a public nuisance existed, the cost of abatement shall be assessed as provided in Subsection (f)(2) above, and no further hearing shall be permitted.

CHAPTER 2

Pollution Abatement

8-2-1 Cleanup of Spilled or Accidentally Discharged Wastes
8-2-2 Storage of Polluting Substances

SEC. 8-2-1 CLEANUP OF SPILLED OR ACCIDENTALLY DISCHARGED WASTES.

(a) **Cleanup Required.** All persons, firms, or corporations delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to, the following: fuel oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catch-basin wastes, oil or petroleum wastes, shall immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing pollution to the lakes and streams under the jurisdiction of the City of Montreal.

(b) **Notification.** Spills or accidental release of hazardous materials or pollutants at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible party or parties shall be immediately reported to the City Clerk-Treasurer so that assistance can be given by the proper agency.

(c) **Financial Liability.** The party or parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the City, or its designated agent, in an effort to minimize the pollutional effects of the discharged waste.

SEC. 8-2-2 STORAGE OF POLLUTING SUBSTANCES.

It shall be unlawful for any person, firm or corporation to store any potentially polluting substances unless such substances are stored in such manner as to securely prevent them from escaping onto the ground surface and/or into any street, sewer, ditch or drainageway, lake or stream within the jurisdiction of the City of Montreal.

CHAPTER 3

Refuse Disposal and Collection

8-3-1 Title
8-3-2 Declaration of Policy
8-3-3 Definitions
8-3-4 Refuse Storage Areas
8-3-5 Approved Waste and Refuse Containers
8-3-6 Collection of Refuse
8-3-7 Prohibited Activities and Non-Collectible Materials
8-3-8 Garbage Accumulation; When a Nuisance
8-3-9 Refuse From Outside the Municipality

SEC. 8-3-1 TITLE.

This Chapter shall be known as the Solid Waste Management Ordinance of the City of Montreal, hereinafter referred to as this "Ordinance" or "Chapter."

SEC. 8-3-2 DECLARATION OF POLICY.

It is hereby declared to be the purpose and intent of this Chapter to enhance and improve the environment and promote the health, safety and welfare of the City by establishing minimum standards for the storage, collection, transport, processing, separation, recovery and disposal of solid waste.

SEC. 8-3-3 DEFINITIONS.

For the purpose of this Chapter, the following words and phrases shall have the meanings given herein unless different meanings are clearly indicated by the context.

(a) **Agricultural Establishment** -- An establishment engaged in the rearing and slaughtering of animals and the processing of animal products or orchard and field crops.
(b) **Bulky Waste** -- Items whose large size precludes or complicates their handling by normal collection, processing or disposal methods.
(c) **Commercial Unit** -- Commercial units shall be all property other than residential units and shall include boarding houses, motels and resorts.
(d) **Curb** -- The back edge or curb and gutter along a paved street or where one would be if the street was paved and had curb and gutter.
(e) **Demolition Wastes** -- That portion of solid wastes consisting of wastes from the repair, remodeling or reconstruction of buildings, such as lumber, roofing and sheathing scraps, rubble, broken concrete, asphalt and plaster, conduit, pipe, wire, insulation and any other materials resulting from the demolition of buildings and improvements.
(f) **Disposal** -- The orderly process of discarding useless or unwanted material.
(g) **DNR** -- The Wisconsin Department of Natural Resources.
(h) **Dump** -- A land site where solid waste is disposed of in a manner that does not protect the environment.

(i) **Dwelling Unit** – A place of habitation occupied by a normal single family unit or a combination of persons who may be considered as equivalent to a single family unit for the purposes of this Chapter.

(j) **Garbage** – Includes every refuse accumulation of animals, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables originally used for food-stuffs.

(k) **Hazardous Waste** – Those wastes such as toxic, radioactive or pathogenic substances which require special handling to avoid illness or injury to persons or damage to property and the environment.

(l) **Industrial Waste** – Waste material, except garbage, rubbish and refuse, directly or indirectly resulting from an industrial processing or manufacturing operation.

(m) **Litter** – Solid waste scattered about in a careless manner, usually rubbish.

(n) **Non-Residential Solid Waste** – Solid waste from agricultural, commercial, industrial or institutional activities or a building or group of buildings consisting of four (4) or more dwelling units.

(o) **Person** – Individuals, firms, corporations and associations, and includes the plural as well as the singular.

(p) **Private Collection Services** -- Collection services provided by a person licensed to do same by the DNR.

(q) **Recyclable Waste** – Waste material that can be remanufactured into usable products and shall include, by way of enumeration but not by way of limitation, glass, plastics, newspapers, cardboard, metals (aluminum, steel, tin, brass, etc.).

(r) **Refuse** -- Includes all waste material, including garbage, rubbish and industrial waste and shall, by way of enumeration but not by way of limitation, include grass, leaves, sticks, tree branches and logs, stumps, stone, cement, boards, furniture or household appliances, garden debris.

(s) **Residential Solid Waste** – All solid waste that normally originates in a residential environment from residential dwelling units.

(t) **Residential Unit** -- Residential unit shall mean an individual household capable of independent habitation by a family unit. A single family dwelling shall be considered to be one (1) residential unit; multi-family dwelling shall be considered to be multiple residential units, the number of residential units to equal the number of family units to be housed therein. Residential units shall not include boarding houses, motels or resorts.

(u) **Rubbish** – Includes combustible and noncombustible waste material, except rocks, concrete, bricks and similar solid materials, plaster or dirt, that is incidental to the operation of a building and shall include, by way of enumeration but not by way of limitation, tin cans, bottles, rags, paper, cardboard, sweepings.

(v) **Scavenging** – The uncontrolled removal of materials at any point in solid waste management.

(w) **Solid Waste** – Garbage, rubbish and other useless, unwanted or discarded material from agricultural, residential, commercial, industrial or institutional activities. Solid waste does not include solid or dissolved material in domestic sewage.

(x) **Storage** – The interim containment of solid waste in an approved manner after generation and prior to collection and ultimate disposal.

(y) **Storage Areas** – Areas where persons place containers during non-collection days as well as areas where containers are set out on collection day.

SEC. 8-3-4 REFUSE STORAGE AREAS.

Storage areas shall be kept in a nuisance- and odor-free condition. Litter shall not be allowed to accumulate. Collection crews will not be responsible for cleaning up loose materials from any containers which have become ruptured or broken due to wet conditions, animals, vandalism or other cause. The occupant and/or owner shall be responsible for cleaning up this litter. Litter not collected shall not be allowed to accumulate. Violation will result in the occupant and/or owner being notified to clean up his area with continued violation resulting in the owner being prosecuted under the provisions of this and other City Ordinances.

SEC. 8-3-5 APPROVED WASTE AND REFUSE CONTAINERS.

(a) **General Container Standards.** Suitable containers of a type approved by the private refuse collector serving the City shall be provided by the property owner or tenant in which to store all solid waste except for bulky or certain yard wastes as provided for herein. Containers, in order to be approved, shall provide for efficient, safe and sanitary handling of solid wastes. They shall be maintained in a nuisance- and odor-free condition and shall be sufficient to prevent the scattering of contents by weather conditions or animals.

(b) **Approved Containers.** All garbage created, accumulated or produced shall be deposited in containers of a type approved by the Common Council. Each container for a residential unit shall be equipped with suitable handles and tight-fitting covers, shall be watertight and shall have the capacity of not less than five (5) gallons and not more than thirty (30) gallons. All garbage containers shall be kept in a neat, clean and sanitary condition at all times. All garbage containers for residential units shall be of metal, durable plastic or other suitable, moisture-resistant materials, including heavy-duty refuse disposal plastic bags, and shall not exceed thirty (30) gallon capacity. Other containers for multi-family residential units (such as dumpsters) may be used with the express approval of the collection company serving the City. Containers including contents shall not exceed in weight that which one (1) person can safely lift (forty [40] pounds). Metal garbage cans shall be of sufficient thickness to resist denting during normal handing by collection crews. Plastic garbage bags must be closed with a tie and shall consist of plastic material not damaged by freezing and not susceptible to melting. They shall be capable of being handled during hot and cold weather without damage during normal handling by collection crews. Plastic bags shall be of sufficient strength to allow lifting and loading of contents without tearing.

(c) **Householder to Provide Containers.** It shall be the duty of every occupant, tenant and proprietor of any residential unit to provide, and at all times keep in a suitable place readily accessible to the garbage collector, garbage containers capable of holding all garbage which would ordinarily accumulate on such premises between the times of successive collections. The owner of any multiple dwelling shall furnish or require the tenant thereof to furnish proper garbage containers. Garbage containers located at multiple dwellings shall be marked so as to indicate the residential unit to which they belong.

(d) **Ashes.** Cold, completely extinguished ashes may be left for collection in cardboard containers.

(e) **Illegal Containers.** Containers not approved consist of metal barrels and drums, wooden or cardboard barrels, wheelbarrows and other such containers not

approved by this Chapter. These containers will not be emptied regardless of contents or weight.

SEC. 8-3-6 COLLECTION OF REFUSE.

(a) **Placement For Collection.**
   (1) Residential solid waste shall be accessible to collection crews. Collection by packer truck is limited to rubbish, garbage, lawn trimmings and brush. Residential solid waste in approved containers shall be placed immediately behind the curb of the public street for collection. Yard and bulky wastes from residential units shall likewise be placed in neat, orderly fashion behind the curb. During winter months, solid waste shall not be placed on top of the snow bank, nor shall it be placed in the roadway. The owner shall either shovel out an area behind the curb in which to place his wastes or he shall place it in his driveway. Collection crews will not collect residential solid waste unless it is placed at the curb of a public street. Residential units shall bring their solid waste to the public right-of-way for collection. Should collection crews be unable to discharge contents of garbage cans into collection vehicles using normal handing procedures, the cans, including contents, will be left at curb side. The owner shall make provisions to assure that the solid waste therein can be collected on the next collection day. Collection crews will not empty garbage cans by means other than dumping.
   (2) No garbage containers or other containers for refuse other than those of the City shall be placed, kept, stored or located within the right-of-way of a street or alley; provided, however, that the Common Council may authorize the location of such containers within the public right-of-way at specified places and times when such location is necessary for the expeditious collection and disposition of refuse.

(b) **Restriction on Time of Placement.** All receptacles and containers for refuse and rubbish and all bundles of rubbish shall be placed in collection locations as designated in Subsection (a) above only after 6:00 p.m. on the evenings prior to the regular collection time the following day. All receptacles, bags and containers for refuse and garbage disposal shall be removed from the curbside collection point within twenty-four (24) hours after the regular collection time. Collection workers will not enter any structures to remove garbage or refuse, except by written agreement with the property owner.

SEC. 8-3-7 PROHIBITED ACTIVITIES AND NON-COLLECTABLE MATERIALS.

(a) **Dead Animals.** It shall be unlawful to place any dead animal, or parts thereof, in a container for collection provided, however, this Section shall not apply to animal parts from food preparation for human consumption.

(b) **Undrained Food Wastes.** It shall be unlawful to place any garbage or other food wastes in a container for collection unless it is first drained and wrapped.

(c) **Ashes.** It shall be unlawful to place hot ashes for collection. [See Section 8-3-5(c).]

(d) **Improper Placement.** It shall be unlawful to place, or allow to be placed, any solid waste upon the roads, streets, public or private property within the City contrary to the provisions of this Chapter.

(e) **Compliance With Chapter.** It shall be unlawful to store, collect, transport, transfer, recover, incinerate or dispose of any solid waste within the boundaries of the City contrary to the provisions of this Chapter.

(f) **Improper Transportation.** It shall be unlawful to transport any solid waste in any vehicle which permits the contents to blow, sift, leak or fall therefrom. If spillage does occur, the collection crew shall immediately return spilled materials to the collection vehicle and shall properly clean, or have cleaned, the area. All vehicles used for the collection and transportation of solid waste shall be durable, easily cleanable and leakproof, if necessary, considering the type of waste and its moisture content. Collection vehicles shall be cleaned frequently to prevent nuisances and insect breeding and shall be maintained in good repair.

(g) **Interference With Authorized Collector.** No person other than an authorized collector shall collect or interfere with any garbage after it shall have been put into a garbage receptacle and deposited in the proper place for the collector, nor shall any authorized person molest, hinder, delay or in any manner interfere with an authorized garbage collector in the discharge of his duties.

(h) **Scavenging.** It shall be unlawful for any person to scavenge any solid waste placed for collection.

(i) **Private Dumps.** It shall be unlawful for any person to use or operate a dump.

(j) **Burning of Waste.** It shall be unlawful for any person to burn solid waste in any manner, except as provided elsewhere in this Code of Ordinances.

(k) **Non-Collectible Materials.** It shall be unlawful for any person to place for collection any of the following wastes:
   (1) Hazardous waste;
   (2) Toxic waste;
   (3) Chemicals;
   (4) Explosives or ammunition;
   (5) Drain or waste oil or flammable liquids;
   (6) Large quantities of paint;
   (7) Inoperable vehicles;
   (8) Lumber.

(l) **Animal or Human Wastes.** It shall be unlawful for any person to place animal wastes and/or human wastes for collection. These wastes should be disposed of in plastic bags or in the sanitary sewer system.

(m) **Hospital Wastes.** It shall be unlawful for any person to place for collection any pathogenic hospital wastes. Such items as needles and syringes may be disposed of as long as they are contained to eliminate injury to collection crews.

(n) **Building Waste.** All waste resulting from remodeling, construction or removal of a building, roadway or sidewalk shall be disposed of by the owner, builder or contractor.

SEC. 8-3-8 GARBAGE ACCUMULATION; WHEN A NUISANCE.

The accumulation or deposit of garbage, trash or putrescible animal or vegetable matter in or upon any lot or land or any public or private place within the City which causes the air or environment to become noxious or offensive or to be in such a condition as to promote the breeding of flies, mosquitoes or other insects, or to provide a habitat or breeding place for rodents or other animals, or which otherwise becomes injurious to the public health is prohibited and declared to constitute a nuisance.

SEC. 8-3-9 REFUSE FROM OUTSIDE THE MUNICIPALITY.

It is unlawful for any person, firm or corporation to place, deposit or cause to be deposited, for collection, any waste or refuse not generated within the corporate limits of the City of Montreal.

TITLE 9

Public Utilities

Chapter 1 Water Utility Regulations and Rates
Chapter 2 Sewer Utility Regulations and Service Charges
Chapter 3 Cable Television

CHAPTER 1

Water Utility Regulations and Rates

Article A Rates

9-1-1 Public Fire Protection Service -- F-1
9-1-2 Private Fire Protection Service -- Unmetered -- Upf-1
9-1-3 General Service -- Metered -- Mg-1
9-1-4 General Water Service -- Unmetered -- Ug-1
9-1-5 Public Service -- Mpa-1
9-1-6 Reconnection Charges -- R-1
9-1-7 Building and Construction Water Service -- Mz-1
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9-1-10 Water Lateral Installation Charge -- Cz-1
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Article B Rules and Regulations

9-1-20 Compliance With Rules
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9-1-23 Temporary Metered Supply, Meter and Deposits
9-1-24 Water for Construction
9-1-25 Use of Hydrants for Construction; Temporary Supply
9-1-26 Operation of Valves and Hydrants; Unauthorized Use of Water; Penalty
9-1-27 Refunds of Monetary Deposits
9-1-28 Service Connections (or Water Laterals)
9-1-29 Service Piping for Meter Settings
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9-1-34 Stop Boxes
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9-1-37 Replacement and Repair of Service Pipe
9-1-38 Charges for Water Wasted Due to Leaks

9-1-39 Inspection of Premises
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9-1-43 Vacation of Premises
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9-1-45 Duty of Utility With Respect to Safety of the Public
9-1-46 Handling Water Mains and Service Pipes in Sewer or Other Trenches
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9-1-48 Protective Devices
9-1-49 Cross Connection Control
9-1-50 Water Main Extension Rule
9-1-51 Water Main Installations in Platted Subdivisions
9-1-52 Well Abandonment and Well Operation Permits

ARTICLE A

Rates

SEC. 9-1-1 PUBLIC FIRE PROTECTION SERVICE – F-1.

(a) For public fire protection service to the City of Montreal, the annual charge shall be Twenty Thousand Nine Hundred Fifty-seven Dollars ($20,957.00) to cover the use of mains and hydrants up to and including the terminal hydrant and connection on each main existing for the 1983 test year.

(b) For all extensions of fire protection service, a charge of twenty-one cents (21¢) per lineal foot of main shall be charged per annum on the basis of the length of main put into use between hydrants placed, plus a charge of Seventy Dollars ($70.00) net per hydrant added to the system after the base period.

(c) This service shall include the use of hydrants for fire protection service only and such quantities of water as may be demanded for the purposes of extinguishing fires within the municipal boundary only. For all other purposes, the metered or other rates set forth, or as may be filed with the Public Service Commission, shall apply.

(d) The above base annual charge of Twenty Thousand Nine Hundred Fifty-seven Dollars ($20,957.00) includes an estimated fifty-eight thousand five hundred forty-six (58,546) feet of distribution main, four (4) inch and larger, and seventy-two (72) hydrants.

SEC. 9-1-2 PRIVATE FIRE PROTECTION SERVICE -- UNMETERED -- UPF-1.

(a) **Purpose.** This service shall consist of unmetered connections to the main for automatic sprinkler systems, standpipes (where the same are connected permanently or continuously to the mains) and private hydrants.

(b) **Service Charge.** Quarterly demand charges for private fire protection service:

Size of Connection	Quarterly Charge
2-inch	$ 25.00
3-inch	$ 43.00
4-inch	$ 63.00
6-inch	$114.00
8-inch	$166.00
10-inch	$225.00
12-inch	$268.00

(c) **Billing.** Same provisions as for general service.

(d) **Combined Service.** When a four (4) inch or larger connection is made to the main for private fire protection service, such service line may be tapped with a smaller size branch line for general service. This small branch line may be metered and the water therefrom billed at the regular metered rates, Schedule Mg-1. The charge for private fire protection service will be that applicable to the size of connection to the main as stated in the above schedule. Where "X" equals the unmetered private fire protection quarterly charge applicable to the size of connection and "Y" is the service charge for general service, the charge for private fire protection service shall be (X-.30Y).

SEC. 9-1-3 GENERAL SERVICE – METERED – MG-1.

(a) **Service Charge:**

	Quarterly
5/8-inch meter -	$ 12.00
3/4-inch meter -	$ 13.00
1-inch meter -	$ 25.00
1-1/4-inch meter -	$ 35.00
1-1/2-inch meter -	$ 46.00
2-inch meter -	$ 71.00
2-1/2-inch meter -	$ 109.00
3-inch meter -	$ 130.00
4-inch meter -	$ 214.00
6-inch meter -	$ 424.00
10-inch meter -	$1,013.00
12-inch meter -	$1,350.00

(b) **Volume Charge:**

$1.68 per 1,000 gallons used each quarter.

(c) **Billing.** Bills for water service are rendered quarterly and become due and payable on the first day of each month. A late payment charge of three percent (3%) but not less than thirty cents (30¢) will be added to bills not paid within twenty (20) days of issuance. This late payment charge will be applied to the total unpaid balance for utility service, including unpaid late payment charges. This late payment charge is applicable to all customers. The utility customer may be given a written notice that the bill is overdue no sooner than twenty (20) days after the bill is issued and unless payment or satisfactory arrangement for payment is made within the next eight (8) days, service may be disconnected pursuant to Chapter PSC 185, Wis. Adm. Code. A Ten Dollar ($10.00) charge will be made for processing checks that have been returned for insufficient funds.

(d) **Combined Metering.** When a consumer's premises has several buildings, each supplied with service and metered separately, the full service charge will be billed for each meter separately and the readings will not be cumulated. If these buildings are all used in the same business and are connected by the consumer, they can be metered on one place. If the utility, for its own convenience, installs more than one meter, the readings will be cumulated for billing.

SEC. 9-1-4 GENERAL WATER SERVICE – UNMETERED – UG-1.

(a) **Rate.** Where the utility cannot immediately install its water meter, service may be supplied temporarily on an unmetered basis. Such service shall be billed at the rate of Twenty-five Dollars ($25.00) each quarter. This rate shall be applied only to single-family residential and small commercial customers and approximates the cost of eight thousand (8,000) gallons of water per quarter under Mg-1. If it is determined by the utility that usage is in excess of eight thousand (8,000) gallons of water per quarter, an additional charge of One and 68/100 Dollars ($1.68) per one thousand (1,000) gallons will be made for the estimated additional usage.

(b) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-5 PUBLIC SERVICE -- MPA-1.

(a) Water service supplied to municipal buildings, schools, etc., shall be metered and the regular metered service rates applied.

(b) Water used on an intermittent basis for flushing service, street sprinkling, flooding skating rinks, drinking fountains, etc., shall be metered where meters can be set to measure the service. Where it is impossible to measure the service, the Utility shall estimate the volume of water used based on the pressure, size of opening and period of time water is allowed to be drawn. the estimated quantity used shall be billed at the rate of One and 68/100 Dollars ($1.68) per one thousand (1,000) gallons.

SEC. 9-1-6 RECONNECTION CHARGES -- R-1.

	During Normal Business Hours	After Normal Business Hours
Reinstallation of meter	$12.00	$15.00
Valve turned on at curb stop	$10.00	$12.00

SEC. 9-1-7 BUILDING AND CONSTRUCTION WATER SERVICE -- MZ-1.

For single-family and small commercial buildings, apply the minimum service charge (Mg-1) for the size of meter to be installed. For large commercial, industrial or multiple apartment buildings, a temporary metered installation shall be made and general metered rates (Mg-1) applied.

SEC. 9-1-8 BULK WATER -- B-1.

All bulk water supplied to fill tank trucks or swimming pools from the water system through hydrants or other connections shall be metered. Utility personnel shall supervise the delivery of the water.

Service charge	$10.00
Plus volume charge	$ 1.68 per 1,000 gallons

SEC. 9-1-9 ADDITIONAL METER RENTAL CHARGE -- AM-1.

If a customer requests the installation of an additional meter to receive credit for clear water not discharged into the sanitary sewer system or if a sewerage service customer who is not a customer of the water utility requests the installation of a meter to determine the volume of sewage discharged into the sanitary sewer system, the utility shall furnish and install this additional meter. A rental fee shall be charged for the use of this meter and the following rates shall apply.

5/8 and 3/4-inch meter	-	$ 2.00 per quarter
1-inch meter	-	$ 3.00 per quarter
1-1/4-inch meter	-	$ 4.50 per quarter
1-1/2-inch meter	-	$ 6.00 per quarter
2-inch meter	-	$ 8.00 per quarter

SEC. 9-1-10 WATER LATERAL INSTALLATION CHARGE -- CZ-1.

The initial water service lateral will be installed from the main through the curb stop and box by the utility, for which there will be made a charge as follows:

1-inch copper water service	$400.00
Larger-sized water services	Actual Cost

SEC. 9-1-11 SEASONAL, EMERGENCY OR TEMPORARY SERVICE -- MGT-1.

Seasonal customers shall be served at the general service rate (Mg-1) except that each customer served under this rate shall pay an annual seasonal minimum bill equal to four (4) times the applicable quarterly minimum bill. Water use in any quarter shall be billed at the applicable volume schedule in Mg-1 and the charge added to the annual seasonal minimum bill.

SEC. 9-1-12 THROUGH SEC. 9-1-19 RESERVED FOR FUTURE USE.

ARTICLE B

Rules and Regulations

SEC. 9-1-20 COMPLIANCE WITH RULES.

All persons now receiving a water supply from the City of Montreal water utility, or who may hereafter make application therefor, shall be considered as having agreed to be bound by the rules and regulations as filed with the Public Service Commission of Wisconsin.

SEC. 9-1-21 ESTABLISHMENT OF SERVICE.

(a) Application for water service shall be made in writing on a form furnished by the water utility. The application will contain the legal description of the property to be served, name of the owner, the exact use to be made of the service, and the size of the supply pipe and meter desired. (Note particularly any special refrigeration and/or air-conditioning water-consuming appliances.

(b) Service will be furnished only if:
   (1) Premises have a frontage on a properly platted street or public strip in which a cast iron or other long-life water main has been laid, or where property owner has agreed to and complied with the provisions of the utility's filed main extension rule.
   (2) Property owner has installed or agrees to install a service pipe form the curb line to the point of use, and laid not less than six (6) feet below the surface of an established or proposed grade, and according to utility's specification, and
   (3) Premises have adequate piping beyond metering point.

(c) The owner of a multi-unit dwelling has the option of being served by individual metered water service to each unit. The owner, by selecting this option, is required to provide interior plumbing and meter settings to enable individual metered service to each unit and individual disconnection without affecting service to the other units. Each meter and meter connection will be a separate water utility customer for the purpose of the filed rules and regulations.

(d) No division of the water service of any lot or parcel of land shall be made for the extension and independent meterage of the supply to an adjoining lot or parcel of land. No division of a water supply service shall be made at the curb for separate supplies therefrom for two (2) or more separate premises having frontage on any street or public service strip whether owned by the same or different parties.

(e) The Utility is hereby empowered to withhold approval of any application wherein full information of the purpose of such supply is not clearly indicated and set forth by the applicant property owner.

SEC. 9-1-22 SERVICE CONTRACT.

(a) The minimum service contract period shall be one (1) year unless otherwise specified by special contract or in the applicable rate schedule. Where the Utility service has been disconnected at the customer's request prior to expiration of his minimum contract period, a reconnection charge shall be made, payable in advance, when the customer requests reconnection of service. (See

Section 9-1-6 for applicable rate.) The minimum contract period is renewed with each reconnection.

(b) A reconnection charge shall also be required from consumers whose services are disconnected (shut off at curb stop) because of non-payment of bills when due (not including disconnection for failure to comply with deposit or guarantee rules). (See Section 9-1-6 for applicable rate.)

(c) A consumer shall be considered as the same consumer provided the reconnection is requested for the same location by any member of the same family, or if a place of business, by any partner or employee of the same business.

SEC. 9-1-23 TEMPORARY METERED SUPPLY, METER AND DEPOSITS.

An applicant for temporary water supply on a metered basis shall make and maintain a monetary deposit of not less than Fifteen Dollars ($15.00) for each meter installed as security for payment for use of water and for such other charges which may arise from the use of the supply. The charge for setting the valve and furnishing and setting the meter will be Five Dollars ($5.00), so that of the Fifteen Dollars ($15.00) deposited, Ten Dollars ($10.00) will be available to pay for the water used at the scheduled rates.

SEC. 9-1-24 WATER FOR CONSTRUCTION.

(a) When water is requested for construction purposes, or for filling tanks or other such uses, an application therefor shall be made to the Utility, in writing, upon application provided for that purpose in the Water Department office, giving a statement of the amount of construction work to be done, or the size of the tank to be filled, etc. Payment for the water for construction shall be made in advance at the scheduled rates. The service pipe must be installed inside the building from where the water must be drawn. No connection with the service pipe at the curb shall be made without special permission from the Utility.

(b) In no case will any employee of the utility turn on water for construction work unless the contractor first presents a permit. Upon completion of the construction work, the contractor must return the original permit to the Utility, together with a statement of the actual amount of construction work performed.

(c) Consumers shall not allow contractors, masons or other persons to take water form their premises without first showing a permit from the Department. Any consumer failing to comply with this provision will have water service discontinued.

SEC. 9-1-25 USE OF HYDRANTS FOR CONSTRUCTION; TEMPORARY SUPPLY.

(a) In cases where no other supply is available, permission may be granted by the Utility to use a hydrant. No hydrant shall be used until it is equipped with a sprinkling valve. In no case shall any valve be moved except by a member of the Utility.

(b) Before a valve is set, payment must be made for its setting and for the water to be used at the scheduled rates. Upon completing use of the hydrant, the customer must notify the Utility to that effect.

(c) In the use of a hydrant supply, the hydrant valve will be set at the proper opening by the Utility when the sprinkling valve is set, and the flow of water must be regulated by means of the sprinkling valve. If the water is to be used

through iron pipe connections, all such pipe installations shall have the swing joint to facilitate quick disconnection from the fire hydrant.

SEC. 9-1-26 OPERATION OF VALVES AND HYDRANTS; UNAUTHORIZED USE OF WATER; PENALTY.

Any person who shall, without authority of the Utility, allow contractors, masons, or other unauthorized persons to take water from their premises, operate any valve connected with the street or supply mains, or open any fire hydrant connected with the distribution system, except for the purpose of extinguishing fire, or who shall wantonly damage or impair the same shall be subject to a fine as provided by municipal ordinances. Permits for the use of hydrants apply only to such hydrants as are designated for the specific use.

SEC. 9-1-27 REFUNDS OF MONETARY DEPOSITS.

All moneys deposited as security for payment of charges arising from the use of temporary water supply on a metered basis, or for the return of a sprinkling valve wheel or reducer, if the water is used on an unmetered basis, will be refunded to the depositor on the termination of the use of water, the payment of all charges levied against the depositor, and the return of the wheel and reducer.

SEC. 9-1-28 SERVICE CONNECTIONS (OR WATER LATERALS).

(a) No water service shall be laid through any trench having cinders, rubbish, rock or gravel fill, or any other material which may cause injury to or disintegration of the service pipe, unless adequate means of protection are provided by sand filling or such other insulation as may be approved by the Utility. Service pipes passing through curb or retaining walls shall be adequately safeguarded by provision of a channel space or pipe casing, not less than twice the diameter of the service connection. The space between the service pipe and channel or pipe casing shall be filled and lightly caulked with an oakum, mastic cement, or other resilient material, and made impervious to moisture.

(b) In backfilling the pipe trench, the service pipe must be protected against injury by carefully hand tamping the ground filling, free from hard lumps, rocks, stones, or other injurious material, around and at least six (6) inches over the pipe.

(c) All water supplies shall be of undiminished size from the street main in to the point of meter placement. Beyond the meter outlet valve the piping shall be sized and proportioned to provide, on all floors, at all times, an equitable distribution of water supply for the greatest probable number of fixtures or appliances operating simultaneously. All such service shall comply with the provisions of the State Plumbing Code and shall be inspected by the Plumbing Inspector.

SEC. 9-1-29 SERVICE PIPING FOR METER SETTINGS.

(a) In cases where a new customer whose service is to be metered installs the original service piping or where an existing metered customer changes his service piping for his own convenience, or where an existing flat rate customer requests

to be metered, the customer shall, at his expense, provide a suitable location and the proper connections for the meter. In such instances, a valve shall be installed before and after the meter to assist in the changing of the meter. The Water Utility should be consulted as to the type and size of meter setting. Where it is possible to set meters in the basement, or other suitable place within the building, a short nipple shall be inserted after the stop and waste cock, then a union, and then another nipple and coupling of the proper length. The nipple attached to the union and coupling shall be cut to a standard length provided by the plans of the Utility (it may require a horizontal run of eighteen (18) inches in such pipe line) which may later be removed for the insertion of the meter into the supply line.

(b) No permit will be given to change from metered to flat rate service.

SEC. 9-1-30 TURNING ON WATER.

The water cannot be turned on for a consumer except by a duly authorized employee of the utility. When a plumber has completed a job, he must leave the water turned off. This does not prevent the plumber from testing the work.

SEC. 9-1-31 FAILURE TO READ METERS.

(a) Where the utility is unable to read a meter after two (2) successive attempts, the fact will be plainly indicated on the bill, and either an estimated bill will be computed, or the minimum charge applied. The difference shall be adjusted when the meter is again read, that is, the bill for the succeeding quarter will be computed with the gallons or cubic feet in each block of the rate schedule doubled and credit will be given on that bill for the amount of the minimum bill paid the preceding month. Only in unusual cases or where approval is obtained from the customer shall more than two (2) consecutive estimated bills be rendered.

(b) If the meter is damaged (see Surreptitious Use of Water) or fails to operate, the bill will be based on the average use during the past year unless there is some reason why the use is not normal. If the average use cannot be properly employed, the bill will be estimated by some equitable method.

SEC. 9-1-32 COMPLAINT METER TESTS.

See Wis. Adm. Code, Chapter PSC 185.77.

SEC. 9-1-33 THAWING FROZEN SERVICES.

See Wis. Adm. Code, Chapter PSC 185.89.

SEC. 9-1-34 STOP BOXES.

The consumer shall protect the stop box in the terrace and shall keep the same free from dirt and other obstructions. The utility shall not be liable for failure to locate the stop box and shut off the water in case of a leak on the consumer's premises.

SEC. 9-1-35 INSTALLATION OF METERS.

Meters will be furnished and placed by the utility and are not to be disconnected or tampered with by the consumer. All meters shall be so located that they shall be protected from obstructions and permit ready access thereto for reading, inspection, and servicing, such location to be designated or approved by the Utility. All piping within the building must be supplied by the consumer. Where additional meters are desired by the consumer, he shall purchase the meter and pay for all piping and an additional amount sufficient to cover the cost of maintenance and depreciation.

SEC. 9-1-36 REPAIRS TO METERS.

(a) Meters will be repaired by the water department and the cost of such repairs caused by ordinary wear and tear will be borne by the utility.
(b) Repair of any damage to a meter resulting from the carelessness of the owner of the premises, his agent, or tenant, or from the negligence of any one of them to properly secure and protect same, including any damage that may result from allowing a water meter to become frozen or to be injured from the presence of hot water or steam in the meter, shall be paid for by the consumer or the owner of the premises.

SEC. 9-1-37 REPLACEMENT AND REPAIR OF SERVICE PIPE.

(a) Where the property owner requests that a larger service lateral be installed to replace an existing smaller diameter pipe, an allowance of Fifteen Dollars ($15.00) will be made as a deduction in the cost, providing the new service is to be installed in the same ditch as the existing service pipe.
(b) The service pipe from the main to and through the curb stop will be maintained and kept in repair and when worn out, replaced at the expense of the utility. The property owner shall maintain the service pipe form the curb stop to the point of use.
(c) If a consumer fails to repair a leaking or broken service pipe from curb to point of metering or use within such time as may appear reasonable to the Utility after notification has been served on the consumer by the Utility, the water will be shut off and will not be turned on again until the repairs have been completed.

SEC. 9-1-38 CHARGES FOR WATER WASTED DUE TO LEAKS.

See Wis. Adm. Code, Chapter PSC 185.35(6).

SEC. 9-1-39 INSPECTION OF PREMISES.

During reasonable hours any officer or authorized employee of the utility shall have the right of access to the premises supplied with service, for the purpose of inspection or for the enforcement of the utility's rules and regulations. At least once every twelve (12) months the utility will make a systematic inspection of all unmetered water taps for the purpose of checking waste and unnecessary use of water. If entry to the premises is denied, the authorized inspector may seek an inspection warrant pursuant to Sec. 66.122, Wis. Stats.

SEC. 9-1-40 CUSTOMER'S DEPOSITS.

(a) **New Residential Service.** The utility may require a cash deposit or other guarantee as a condition of new residential service if, and only if, the customer has an outstanding account balance with the utility which accrued within the last six (6) years, and which at the time of the request for new service remains outstanding and not in dispute.

(b) **Existing Residential Service.** The utility may require a cash deposit or other guarantee as a condition of continued service if, and only if, either or both of the following circumstances apply:

(1) Service has been shut off or discontinued within the last twelve (12) months for violation of these rules and regulations or for nonpayment of a delinquent bill for service which is not in dispute.

(2) Credit information obtained by the company subsequent to the initial application indicates that the initial application for service was falsified or incomplete to the extent that a deposit would be required under these rules and regulations.

(c) **Commercial and Industrial Service.** If the credit for an applicant for commercial or industrial service has not been established to the satisfaction of the utility, he may be required to make a deposit or otherwise guarantee to the utility payment of bills for service.

(d) **Conditions of Deposit.** See Wis. Adm. Code, Chapter PSC 185.36(4).

(e) **Refund of Deposits.** The utility shall review the payment record of each residential customer with a deposit on file at not less than twelve- (12) month intervals and shall not require or continue to require a deposit unless a deposit could be required under the conditions stated above. In the case of a commercial or industrial customer the utility shall refund the deposit after twenty-four (24) consecutive months of prompt payment if the customer's credit standing is satisfactory to the company. Payment shall be considered "prompt" if it is made prior to notice of disconnection for nonpayment of a bill not in dispute. Any deposit or portion thereof refunded to a customer shall be refunded by check unless both the customer and the company agree to credit the regular bill or unless service is terminated, in which case the deposit with accrued interest shall be applied to the final bill and any balance returned to the customer promptly.

(f) **Other Conditions.** A new or additional deposit may be required upon reasonable written notice of the need therefor if such new or additional deposit could have been required under the circumstances when the initial deposit was made. Service may be refused or disconnected for failure to pay a deposit request as provided in the rules. When service has been disconnected for failure to make a deposit, or for failure to pay a delinquent bill, or for failure to comply with the terms of a Deferred Payment Agreement, and satisfactory arrangements have been made to have service restored, a reconnection charge as specified elsewhere in these rules, shall be paid by the customer as a condition to restoration of service.

(g) **Guarantee Contracts.**

(1) The utility may accept, in lieu of a cash deposit, a contract signed by a guarantor satisfactory to the company, whereby payment of a specified sum not exceeding the cash deposit requirement is guaranteed. The term of a guarantee contract shall be two (2) years, but shall automatically terminate after the customer has closed his account, or at the guarantor's request upon thirty (30) days' written notice to the utility.

(2) Upon termination of a guarantee contract or whenever the company deems same insufficient as to amount or surety, a cash deposit or a new or

additional guarantee may be required upon reasonable written notice to the customer. Service to any customer who fails to comply with these requirements may be refused, or upon eight (8) days' written notice, disconnected.

(3) The utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account he has guaranteed unless the guarantor waives such notice in writing.

(4) In lieu of a cash deposit or guarantee, an applicant for new service who has an outstanding account accrued within the last six (6) years with the utility shall have the right to receive service from the company under a Deferred Payment Agreement as provided in these Rules and Regulations for the outstanding account balance.

SEC. 9-1-41 DISCONNECTION AND REFUSAL OF SERVICE.

(a) **Reasons for Disconnection.** Service may be disconnected or refused for any of the following reasons:

(1) Failure to pay a delinquent account or failure to comply with the terms of a Deferred Payment Agreement.

(2) Violation of the utility's rules and regulations pertaining to the use of service in a manner which interferes with the service of others or to the operation of nonstandard equipment, if the customer has first been notified and provided with reasonable opportunity to remedy the situation.

(3) Failure to comply with deposit or guarantee arrangements as provided for in these rules and regulations.

(4) Diversion of service around the meter.

(b) **Disconnection for Delinquent Accounts.**

(1) A bill for service is delinquent if unpaid after the due date shown on the bill. The utility may disconnect service for a delinquent bill by giving the customer at least eight (8) calendar days prior to disconnection, a written disconnect notice which may be included with the bill for service. For purposes of this rule, the due date shall not be less than twenty (20) days after issuance.

(2) The utility may disconnect without notice where a dangerous condition exists for as long as the condition exists. Service may be denied to any customer for failure to comply with the applicable requirements of the rules and regulations of the Public Service Commission or of these rules and regulations, or if a dangerous or unsafe condition exists on the customer's premises.

(3) The utility shall notify the County Department of Health and Social Services at least five (5) calendar days prior to any scheduled disconnection of residential service if the customer or responsible person has made a written request for this procedure. The utility shall apprise customers of this right upon application for service.

(c) **Deferred Payment Agreement.**

(1) The utility shall offer Deferred Payment Agreements to residential customers. The Deferred Payment Agreement shall provide that service will not be discontinued for the outstanding bill if the customer pays a stated reasonable amount of the outstanding bill and agrees to pay a stated reasonable portion of the remaining outstanding balance in installments until the bill is paid. In determining what amounts are "reasonable," the parties shall consider the:

a. Size of the delinquent account.

b. Customer's ability to pay.

c. Customer's payment history.
d. Time that the debt has been outstanding.
e. Reasons why the debt has been outstanding.
f. Any other relevant factors concerning the circumstances of the customer.

(2) In the Deferred Payment Agreement it shall state immediately preceding the space provided for the customer's signature and in boldface print at least two (2) sizes larger than any other used thereon, the following:

> "If you are not satisfied with this agreement, do not sign. If you do sign this agreement you give up your right to dispute the amount due under the agreement except for the utility's failure or refusal to follow the terms of this agreement."

(3) A Deferred Payment Agreement shall not include a finance charge.
(4) If an applicant for service has not fulfilled the terms of a Deferred Payment Agreement, the utility shall have the right to disconnect service or refuse service in accordance with these rules and under such circumstances, it shall not be required to offer subsequent negotiation of a Deferred Payment Agreement prior to disconnection.
(5) Any payments made by the customer in compliance with a Deferred Payment Agreement, or otherwise, shall be first considered made in payment of the previous account balance with any remainder credited to the current bill.

(d) **Dispute Procedures.**

(1) Whenever the customer advises the utility's designated office prior to the disconnection of service that all or part of any billing as rendered is in dispute, or that any matter related to the disconnection is in dispute, the utility shall investigate the dispute promptly and completely, advise the customer of the results of the investigation, attempt to resolve the dispute, and provide the opportunity for the customer to enter in to a Deferred Payment Agreement when applicable in order to settle the dispute.
(2) After the customer has pursued the available remedies with the utility, he may request that the Public Service Commission's staff informally review the disputed issue and recommend terms of settlement.
(3) Any party to the dispute after informal review may make a written request for a formal review by the Commission. If the Commission decides to conduct a formal hearing on the dispute, the customer must pay fifty percent (50%) of the bill in dispute or post a bond for that amount on or before the hearing date. Failure to pay the amount or post the bond will constitute a waiver of the right to a hearing. Service shall not be disconnected because of any disputed matter while the disputed matter is being pursued under the disputes procedure. In no way does this relieve the customer form the obligation of paying charges which are not disputed.
(4) The form of disconnection notice to be used is as follows or another form containing the same information:

DISCONNECTION NOTICE

Dear Customer:

The bill enclosed with this notice includes your current charge for utility service and your previous unpaid balance.

You have 8 days to pay the utility service arrears or your service is subject to disconnection.

If you fail to pay the service arrears, or fail to contact us within the 8 days allowed to make reasonable time payment arrangements, we will proceed with disconnection action.

To avoid the inconvenience of service interruption and an additional charge of (amount) reconnection, we urge you to pay the full arrears IMMEDIATELY AT ONE OF OUR OFFICES.

If you have entered into a Deferred Payment Agreement with us and have failed to make the time payment you agreed to, your service will be subject to disconnection unless you pay the amount due within 8 days.

If you have a reason for delaying the payment, call us and explain the situation.

PLEASE CALL THIS TELEPHONE NUMBER, (appropriate telephone number), IMMEDIATELY IF:

1. You have a question about your utility service arrears.
2. You are unable to pay the full amount of the bill and are willing to enter into a time payment agreement with us.
3. There are any circumstances you think should be taken into consideration before service is discontinued.
4. Any resident is seriously ill.

Illness Provision

If there is an existing medical emergency in your home and you furnish the Utility with a statement signed by either a licensed Wisconsin physician, or a public health official, we will delay disconnection of service up to 21 days. The statement must identify the medical emergency and specify the period of time during which disconnection will aggravate the existing emergency.

Deferred Payment Agreements

If, for some reason, you are unable to pay the full amount of the utility service arrears on your bill, you may contact the Utility to discuss arrangements to pay the arrears over an extended period of time.
This time payment agreement will require:

1. Payment of a reasonable amount at the time the agreement is made.
2. Payment of the remainder of the outstanding balance in monthly installments over a reasonable length of time.

3. Payment of all future utility service bills in full by the due date.

In any situation where you are unable to resolve billing disputes or disputes about the grounds for proposed disconnection through contacts with our utility, you may make an appeal to the Wisconsin Public Service Commission, Madison, Wisconsin.

(UTILITY NAME)

(5) In the event the utility is not able to collect any bill for water service even though Deposit and Guarantee Rules are on file, the bill may be put upon the tax roll as provided in Sec. 66.069, Wisconsin Statutes.

SEC. 9-1-42 SURREPTITIOUS USE OF WATER.

(a) When the utility has reasonable evidence that a consumer is obtaining his supply of water, in whole or in part, by means of devices or methods used to stop or interfere with the proper metering of the utility service being delivered to his equipment, the utility reserves the right to estimate and present immediately a bill for service unmetered as a result of such interference and such bill shall be payable subject to a twenty-four (24) hours disconnection of service. When the utility shall have disconnected the consumer for any such reason, the utility will reconnect the consumer upon the following conditions:
   (1) The consumer will be required to deposit with the utility an amount sufficient to guarantee the payment of the consumer's bills for utility service to the utility.
   (2) The consumer will be required to pay the utility for any and all damages to its equipment on the consumer's premises due to such stoppage or interference with its metering.
   (3) The consumer must further agree to comply with reasonable requirements to protect the utility against further losses.
   (4) Sections 98.26 and 943.20, Wisconsin Statutes, as relating to water service, are hereby adopted and made a part of these rules.

SEC. 9-1-43 VACATION OF PREMISES.

When premises are to be vacated, the utility shall be notified in writing at once, so that it may remove the meter and shut off the supply at the curb cock. The owner of the premises shall be liable to prosecution for any damage to the property of the water department by reason of failure to notify the utility of vacancy.

SEC. 9-1-44 REPAIRS TO MAINS.

The utility reserves the right to shut off the water in the mains temporarily, to make repairs, alterations or additions to the plant or system. When the circumstances will permit of sufficient delay, the company will give notification, by newspaper publication or otherwise, of the discontinuance of the supply. No rebate will be allowed to consumers for such temporary suspension of supply.

SEC. 9-1-45 DUTY OF UTILITY WITH RESPECT TO SAFETY OF THE PUBLIC.

It shall be the duty of the Utility to see that all open ditches for water mains, hydrants, and service pipes are properly guarded to prevent accident to any person or vehicle and at night there shall be displayed amber signal light in such manner as will, so far as possible, insure the safety of the public.

SEC. 9-1-46 HANDLING WATER MAINS AND SERVICE PIPES IN SEWER OR OTHER TRENCHES.

(a) Where excavating machines are used in digging sewers, all water mains shall be maintained at the expense of the contractor.
(b) Contractors must ascertain for themselves the existence and location of all service pipes. Where they are removed, cut or damaged in the construction of a sewer, the contractor must at his own expense cause them to be replaced or repaired at once. He must not shut off the water service pipes from any consumer for a period exceeding six (6) hours.

SEC. 9-1-47 SETTLING MAIN OR SERVICE TRENCHES.

Trenches in unpaved streets shall be refilled with moist, damp earth, or by means of water tamping. When water tamping is used, the water shall be turned into the trench after the first twelve (12) inches of backfill has been placed and then the trench shall be kept flooded until the remainder of the backfill has been put in.

SEC. 9-1-48 PROTECTIVE DEVICES.

(a) **Protective Devices in General.** The owner or occupant of every premise receiving water supply shall apply and maintain suitable means of protection of the premise supply, and all appliances thereof, against damage arising in any manner from the use of the water supply, variation of water pressure, or any interruption of water supply. Particularly, such owner or occupant must protect water-cooled compressors for refrigeration systems by means of high pressure safety cutout devices. There shall likewise be provided means for the prevention of the transmission of water ram or noise of operation of any valve or appliance through the piping of their own or adjacent premises.
(b) **Relief Valves.** On all "closed systems" (i.e., systems having a check valve, pressure regulator, or reducing valve, water filter or softener) an effective pressure relief valve shall be installed either in the top tapping or the upper side tapping of the hot water tank, or on the hot water distributing pipe connection at the tank. A one-half (1/2) inch drain pipe shall be connected to the relief valve for discharge on the floor or into a sink or open drain through an air gap. No stop valve shall be placed between the hot water tank and the relief valve or on the drain pipe. (See applicable City plumbing codes).
(c) **Air Chambers.** An air chamber or approved shock absorber shall be installed at the terminus of each riser, fixture branch, or hydraulic elevator main for the prevention of undue water hammer. The air chamber shall have a diameter not less than that of the pipe it serves and a length not less than fifteen (15) diameters of said supply pipe. Where possible, the air chamber should be

provided at its base with a valve and drain cock for water drainage and replenishment of air.

SEC. 9-1-49 CROSS CONNECTION CONTROL.

(a) **Definition.** A cross connection shall be defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the City water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

(b) **Cross Connections Prohibited.** No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the City may enter the supply or distribution system of said municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Water Utility and by the Wisconsin Department of Natural Resources in accordance with Section NR 111.25(3), Wisconsin Administrative Code.

(c) **Inspections.** It shall be the duty of the Water Utility to cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the Water Utility and as approved by the Wisconsin Department of Natural Resources.

(d) **Right to Inspect.** Upon presentation of credentials, the representative of the Water Utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the City for cross connections. If entry is refused, such representative shall obtain a special inspection warrant under Sec. 66.122, Wis. Stats. On request the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

(e) **Discontinuation of Service.** The Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this Section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Chapter 68, Wis. Stats., except as provided in Subsection (f). Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this ordinance.

(f) **Immediate Discontinuation.** If it is determined by the Water Utility that a cross connection or an emergency endangers public health, safety or welfare and requires immediate action, and a written finding to that effect is filed with the Clerk-Treasurer of the City and delivered to the customer's premises, service may be immediately discontinued. The customer shall have an opportunity for hearing under Chapter 68, Wis. Stats., within ten (10) days of such emergency discontinuance.

(g) **State Code Adopted.** The City adopts by reference the State Plumbing Code of Wisconsin being Chapter H 82, Wisconsin Administrative Code.

(h) **Section Not to Supercede Other Ordinances.** This Section does not supercede the State Plumbing Code and any City plumbing ordinances but it supplementary to them.

SEC. 9-1-50 WATER MAIN EXTENSION RULE.

Water mains will be extended for new customers on the following basis:

(a) Where the cost of the extension is to immediately be collected through assessment by the municipality against the abutting property, the procedure set forth under Sec. 66.60 of the Wisconsin Statutes will apply, and no additional customer contribution to the utility will be required.

(b) Where the municipality is unwilling or unable to make a special assessment, the extension will be made on a customer-financed basis as follows:

(1) The applicant(s) will advance as a contribution in aid of construction the total amount equivalent to that which would have been assessed for all property under (a).

(2) Part of the contribution required Subsection (b)(1) will be refundable. When additional customers are connected to the extended main within twenty (20) years of the date of completion, contributions in aid of construction will be collected equal to the amount which would have been assessed under Subsection (a) for the abutting property being served. This amount will be refunded to the original contributor(s). In no case will the contributions received from additional customers exceed the proportionate amount which would have been required under Subsection (a) nor will it exceed the total assessable cost of the original extension.

SEC. 9-1-51 WATER MAIN INSTALLATIONS IN PLATTED SUBDIVISIONS.

(a) Application for installation of water mains in regularly platted real estate development subdivisions shall be filed with the City Clerk-Treasurer and shall set forth the following information:

(1) Name of subdivision.
(2) Legal description.
(3) Map showing streets, lots and sizes of proposed mains and hydrants, and street laterals.
(4) Date of approval of subdivision plan by the State Department of Development.
(5) Date of approval of proposed mains by the State Department of Natural Resources.
(6) Number of houses presently under construction.

(b) Upon receipt of the application, the water utility will prepare detailed estimates of the cost of extending water mains and hydrants of the size deemed necessary in the subdivision and submit same to the municipal governing body for approval of the extension. The applicant for water service to be supplied to a subdivision shall be required to advance to the utility, prior to the beginning of the construction, the total estimated cost of the extension. If the final costs exceed estimated costs, an additional billing will be made for the balance of the cost due, with the balance to be paid within thirty (30) days. If final costs are less than estimated, a refund of overpayment will be made by the utility. If the developer, or a contractor employed by the developer, is to install the water mains (with the approval of the utility), the developer shall be responsible for the total cost of construction.

SEC. 9-1-52 WELL ABANDONMENT AND WELL OPERATION PERMITS.

(a) **Legislative Intent.** NR 811.10, Wis. Adm. Code, directs suppliers of water for municipal water systems to require the abandonment of all unused, unsafe or noncomplying wells located on the premises served by their system, and to provide a permit system to allow retention of safe and code complying wells, by local ordinance or water utility rule, to eliminate sources of unsafe water and to prevent such wells from becoming channels for vertical movement of contaminated water and to eliminate all existing cross-connections and prevent all future cross-connections.

(b) **Purpose.** The purpose of this Section is to protect public health, safety and welfare and to prevent contamination of groundwater by assuring that unused, unsafe or noncomplying wells or wells which may act as conduits for contamination of groundwater or wells which may be illegally cross-connected to the municipal water system, are properly maintained or abandoned.

(c) **Applicability.** This Section applies to all wells located on the premises served by the Montreal municipal water system. Utility customers outside the jurisdiction of the municipal system may be required under contract agreement or utility rule to adopt and enforce equivalent ordinances within their jurisdictions for the purpose stated in Subsection (b) above.

(d) **Definitions.** As used in this Section:

(1) Municipal Water System means a community water system owned by a city, village, county, town, town sanitary district, utility district or federal, state, county or municipal owned institution for congregate care or correction, or a privately owned water utility serving the foregoing.

(2) Noncomplying means a well or pump installation which does not comply with NR 112.42, Wis. Adm. Code, Standards for Existing Installation, and which has not been granted a variance pursuant to NR 112.43, Wis. Adm. Code.

(3) Pump Installation means the pump and related equipment used for withdrawing water from a well including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.

(4) Unsafe means a well or pump installation which produces water which is bacteriologically contaminated or exceeds the drinking water standards of NR 112.06, Wis. Adm. Code, or for which a Health Advisory has been issued by the Department of Natural Resources.

(5) Unused means a well or pump installation which is not used or does not have a functional pumping system.

(6) Well means an excavation or opening into the ground made by digging, boring, drilling, driving, or other methods for the purpose of obtaining groundwater for consumption or other use.

(7) Well Abandonment means the proper filling and sealing of a well according to the provisions of NR 112.26, Wis. Adm. Code.

(e) **Abandonment Required.** All wells on premises served by the municipal water system shall be properly abandoned in accordance with Subsection (g) no later than ninety (90) days from the date of the connection to the municipal water system, unless a valid well operation permit has been issued to the well owner by Montreal under the terms of Subsection (f).

(f) **Well Operation Permit.** Owners of wells on the premises served by the municipal water system wishing to retain their wells for any use shall make application for a well operation permit for each well no later than ninety (90) days after connection to the municipal water system. The Common Council shall grant a permit to a well owner to operate a well for a period not to exceed five (5) years providing all the conditions of this Subsection are met. A well operation permit may be renewed by submitting an application verifying that the conditions of this Subsection are met. The Council, or its agent, may conduct inspections and water quality tests or require inspections and water quality tests to be conducted at the applicant's expense using independent certified contractors to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the City Clerk. The following conditions must be met for issuance or renewal of a well operation permit:

(1) The well and pump installation shall meet or may be upgraded to meet the Standards for Existing Installation described in NR 112.42, Wis. Adm. Code.

(2) The well and pump shall have a history of producing safe water evidenced by at least two (2) Coliform bacteria samples taken a minimum of two (2) weeks apart. In areas where the Department of Natural Resources has determined that groundwater aquifers are contaminated with substances other than bacteria, additional chemical tests may be required to evidence safety of the water.

(3) There shall be no cross-connections between the well's pump installation or distribution piping and the municipal water system.

(4) The well water shall not discharge into a drain leading to a public sewer utility unless properly metered and authorized by the Sewer Utility.

(5) The well shall have a functional pumping system and the proposed use of the well water can be justified as reasonable in addition to water provided by the municipal water system.

(g) **Abandonment Procedures.**

(1) All wells abandoned under the jurisdiction of this Section shall be done according to the procedures and methods of NR 112.26, Wis. Adm. Code. All debris, pumps, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.

(2) The owner of the well, or the owner's agent, may be required to obtain a well abandonment permit prior to any well abandonment and notify the City Clerk in advance of any well abandonment activities. The abandonment of the well may be observed or verified by inspection by the municipal system.

(3) An abandonment report form, supplied by the Department of Natural Resources, shall be submitted by the well owner to the City Clerk and the Department of Natural Resources within thirty (30) days of the completion of the well abandonment.

(h) **Penalties.** Any well owner violating any provision of this Section shall, upon conviction, be punished by a forfeiture of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) and the cost of the prosecution. Each day of violation is a separate offense. If any person fails to comply with this Section for more than thirty (30) days after receiving written notice of the violation, the municipality may impose a penalty and cause the well abandonment to be performed and the expense to be assessed as a special tax against the property.

CHAPTER 2

Sewer Utility Rates and Regulations

Article A Sewer Utility Regulations

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ARTICLE A

Sewer Utility Regulations

SEC. 9-2-1 DEFINITIONS.

(a) Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

(1) "BOD" (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20^{o}) Centigrade, expressed in milligrams per liter (mg/l).

(2) "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet [one and one-half (1.5) meters] outside the inner face of the building wall.

(3) "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(4) "City" shall mean the City of Montreal, Iron County, Wisconsin, acting by and through its authorized agent, normally a certified wastewater treatment plant operator.

(5) "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
(6) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
(7) "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.
(8) "Inspector" shall mean the person or persons duly authorized by the City to inspect and approve the installation of building sewers and their connection to the public sewer.

(9) "Lateral" shall mean that part of the sewer system extending from a street sewer to the curb line or, if there shall be no curb line, to the property line.

(10) "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

(11) "Person" shall mean any individual, firm, company, association, society, corporation or group.

(12) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(13) "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

(14) "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

(15) "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

(16) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

(17) "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

(18) "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

(19) "Sewer" shall mean a pipe or conduit for carrying sewage.

(20) "Shall" is mandatory; "may" is permissive.

(21) "Slug" shall mean any discharge of water, sewage or industrial waste in which the concentration of any given constituent, or the quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

(22) "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than polluted cooling water.

(23) "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in, water, sewage or other liquids and which are removable by laboratory filtering.

(24) "User" shall mean any person connected to the City of Montreal sewage works.

(3) Any water or wastes having a pH lower than six (6.0) or higher than nine (9.0) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the City.

(4) Solid or viscous substances in quantities of such size capable of causing obstruction to the flow in sewers, or other interferences with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(5) Any waters or wastes containing suspended solids of such character or quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.

(6) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(d) **Regulated Discharges.** No person shall discharge or cause to be discharged the following-described substances, materials, waters or wastes if it appears likely, in the opinion of the City, that such waters can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the City will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances so subject are:

(1) Any liquid or vapor having a temperature higher than one hundred fifty degrees (150^0) Fahrenheit [sixty-five degrees (65^0) Centigrade].

(2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit.

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the City.

(4) Any waters or wastes containing strong, acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City for such materials.

(6) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies with jurisdiction for such discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulations.

(8) Materials which exert or cause:
   a. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
   b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
   c. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
   d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(9) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(e) **Actions by City.** If any waters or wastes are discharged or are proposed to be discharged to the public sewers and such waters contain the substances or possess the characteristics enumerated in Subsection (d) and which, in the judgment of the City, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the City may:
   (1) Reject the wastes.
   (2) Require preliminary treatment to an acceptable condition for discharge to the public sewers.
   (3) Require control over the quantities and rates of discharge to the public sewers.
   (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges, as outlined in Sections 9-2-13 and 9-2-14. If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City and subject to the requirements of all applicable codes, ordinances and laws.

(f) **Grease, Oil and Sand Interceptors.** Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection.

(g) **Pretreatment Facilities.** Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(h) **Control Manholes.** When required by the City, the owner of any property services by a building sewer carrying industrial wastes shall install a suitable gauging manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and located and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(i) **Measurement and Test Standard.** All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Chapter shall be determined in accordance with the latest edition of "Standard Methods

SEC. 9-2-3 USE OF PUBLIC SEWERS REQUIRED.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City of Montreal, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectional waste.

(b) It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage. Abandonment of such existing facilities shall take place as outlined in Section 9-2-4(g).

(d) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City is hereby required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter within ninety (90) days after the date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.

(e) The notice by the City to make a connection to a sewer shall include a copy of this Section along with any amendments and/or supplements at the time in effect, or a summary of each Section thereof, and a written document requiring the connection in accordance with the provision of approved ordinances specifying that such connection be made within ninety (90) days from the date the notice is given. Such notice may be served either by personal service or by mail and can be served at any time after the connecting sewer main is operational.

SEC. 9-2-4 PRIVATE SEWAGE DISPOSAL OR PRELIMINARY TREATMENT.

(a) Where a public sanitary or combined sewer is not available under the provisions of Section 9-2-3(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Section.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from the City. The application for such permit shall be made on a form furnished by the City which the applicant shall supplement with any plans, specifications and other information as are deemed necessary by the City. A permit and inspection fee of Fifty Dollars ($50.00) shall be paid to the City at the time the application is filed.

(c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City. The City shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the City when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within seventy-two (72) hours of the receipt of notice by the City.

(d) The type, capacities, location and layout of a private sewage disposal system shall comply with all regulations and recommendations of the Wisconsin Department of Health and Social Services, Division of Health, Plumbing Section. No permit shall be issued for any private sewage disposal system employing sub-

surface soil absorption facilities where the area of the lot is less than twelve thousand (12,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

(f) No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by City, County or State public health officials.

(g) Private sewage disposal systems shall be properly abandoned within sixty (60) days from the date of connection to the public sewer by completely filling septic tanks with clean bank-run gravel or dirt.

SEC. 9-2-5 BUILDING SEWERS AND CONNECTIONS.

(a) **License Required.** No plumber, pipefitter or other person will be permitted to do any plumbing or pipefitting work in connection with the sewage works without first receiving a license from the State of Wisconsin, unless he is an employee of the City.

(b) **Unauthorized Connections.** No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the City.

(c) **Sewer Permit Classes.**

(1) There shall be two (2) classes of building sewer permits:
   a. For residential and commercial service; and
   b. For service to establishments producing industrial wastes.

(2) In either case, the owner or his agent shall make applications on a special form furnished by the City. The application must state fully and truly all uses which will be allowed, except upon further application and permission regularly obtained from the City. If the applicant is not the owner of the premises, the written consent of the owner must accompany the application. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City. A permit and inspection fee of Twenty-five Dollars ($25.00) for a residential or commercial building sewer permit and Fifty Dollars ($50.00) for an industrial building sewer permit shall be paid to the City at the time the application is filed. The application may be for service to more than one (1) building or more than one (1) unit of service through one (1) service connection; and in such case, charges shall be made accordingly.

(d) **Application Rejection.** If it appears that the service applied for will not provide adequate service for the contemplated use, the City may reject the application. If the City shall approve the application, it shall issue a permit for services as shown on the application.

(e) **Initial Deposit.** Each user shall pay, prior to hookup, to guarantee payment of all charges herein, a deposit in cash in the amount equal to the minimum quarterly sewer charge pursuant as hereinafter provided. Said minimum charge to be determined as outlined in Section 9-2-13. Such deposits will be refunded after two (2) years of timely payment of quarterly charges or when the user moves from the premises, whichever is first, providing all charges are current.

(f) **Connection Cost Responsibility.** All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. In addition, it shall be required that a special assessment be charged to users for the installa-

tion and connection of the sewer lateral, which shall be billed either as a lump sum, or installments on the quarterly sewer bill. The amount of such a special assessment shall be a minimum of Two Hundred Dollars ($200.00) or the actual cost of installing the sewer lateral, whichever is greater.

(g) **Cost of Extensions.** Whenever the City is required to extend the sewer system to serve new customers, such customers shall pay the entire cost of such extensions and shall share equally in the debt retirement cost of moneys borrowed for the particular sewer extension. This charge shall be collected quarterly and be listed separately as a special assessment for sewer extension on the customer's bill.

(h) **Contract for Non-City Users.** In cases where the City will transport and treat wastes of users located outside of the City's political jurisdiction, a contract between the City and the political jurisdiction in which such users are located shall be required as a prerequisite for obtaining a sewer connection permit. This contract shall provide that the outlying political jurisdiction will adopt the City's system of user charges and industrial cost recovery or will institute a system of user charges and industrial cost recovery to the City that will be in accordance with the U.S. Environmental Protection Agency guidelines. The contract will also require outlying political jurisdictions to remit to the City all industrial cost recovery payments which the City is required to return to the Federal government and to use for further expansion and reconstruction of the City's sewage works. In addition, the outlying political jurisdiction may be required to install a wastewater flow monitoring station which shall provide an accurate measurement of the total wastewater flow entering the City's sewer system. Or, the outlying political jurisdiction may be required to furnish the City with the water volumes used by the customers located within its jurisdiction.

(i) **Separate Building Sewers.** A separate and independent building sewer shall be provided for every building, except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

(j) **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and testing by the City, to meet all requirements of this Chapter.

(k) **Sewer Construction Materials.** The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of such code provisions, the methods of excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the Standard Specifications for Sewer and Water Construction in Wisconsin, Third Edition, and the State of Wisconsin Plumbing Code. Customer building sewers shall be no less than four (4) inch diameter pipe, with larger diameter sewers to be utilized where required, in accordance with Section H 82.04(3)(a) of the Wisconsin Administrative Code (Plumbing Code). Building sewer materials shall be those specified in the Wisconsin Administrative Code (Plumbing Code), Section H 82.04(2). Installation of building sewers shall conform to Section H 82.04(4) of the Wisconsin Administrative Code (Plumbing Code).

(l) **Building Sewer Elevation.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer,

sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer, at no expense to the City.

(m) **Sewer Tap Location.** Sewer mains should always be tapped on the top and not within six (6) inches of a pipe joint or within twenty-four (24) inches of another lateral.

(n) **Prohibited Connections.** No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.

(o) **Code Compliance Required.** The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code as set forth in Chapter H 82 of the Wisconsin Administrative Code (Plumbing Code). Connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the City before installation.

(p) **Request for Inspections.** The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City.

(q) **Protection of Excavation Site.** All excavation for building sewer installation shall be adequately guarded with barricades and light so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City. In making excavations in streets or highways for laying building sewers or making repairs, the paving and earth removed must be deposited in a manner that will occasion the least inconvenience to the public.

(r) **Trench Backfilling.** In backfilling sewer trench opening, the earth must be laid in layers, no greater than nine (9) inches in depth, and must be thoroughly compacted to prevent settling. No opening of the streets for tapping purposes will be permitted when the ground is frozen.

SEC. 9-2-6 PROHIBITED USES OF THE PUBLIC SEWERS.

(a) **Prohibited Waters.** No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

(b) **Stormwater.** Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as combined sewers or storm sewers or to a natural outlet approved by the City. Industrial cooling water or unpolluted process waters may be discharged, on approval of the City, to a storm sewer, combined sewer or natural outlet.

(c) **Prohibited Wastes.** No person shall discharge or cause to be discharged any of the following-described waters or wastes to any public sewer:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

for the Examination of Water and Wastewater," published by the American Public Health Association and shall be determined at the gauging manhole provided or upon suitable samples taken at said gauging manhole. In the event that no special manhole has been required, the gauging manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. [The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls where phs are determined from periodic grab samples.]

(j) **Special Agreements.** No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern.

SEC. 9-2-7 POWERS AND AUTHORITY OF INSPECTORS.

(a) The City, acting through its duly authorized employees bearing proper credentials and identification, shall be permitted to enter all industrial and commercial properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Chapter. The City shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways of facilities for waste treatment.

(b) While performing the necessary work on private properties referred to in Subsection (a) above, the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless from injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 9-2-6(h).

(c) The City, through its employees bearing proper credentials and identification, shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to be private property involved.

(d) Every user shall permit City agents, at all reasonable hours of the day, to enter their premises or building to examine the pipes and fixtures, and the manner in which the drains and sewer connections operate; and they must, at all times, frankly and without concealment, answer all questions put to them relative to its use.

SEC. 9-2-8 PROTECTION FROM MALICIOUS DAMAGE.

No authorized person shall maliciously and willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to prosecution for disorderly conduct.

SEC. 9-2-9 USER RULES, REGULATIONS AND PENALTIES.

(a) The rules, regulations and sewer rates of the City of Montreal hereinafter set forth shall be considered a part of the contract with every person, company and/or corporation. Such person, company or corporation, by connecting with the sewer system, shall be considered as expressing his or their assent to be bound thereby.

(b) Any person found to be violating any provision of this Chapter except Section 9-2-8 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(c) Any person who shall continue any violation beyond the time limit provided in Subsection (b) above shall, on conviction thereof, be subject to a forfeiture in the amount of Two Hundred Dollars ($200.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. In addition, the City may shut off service from the building or place of such violation [even though two (2) or more parties are receiving service through the same connection] and it shall not be reestablished except by order of the City and on payment of all arrears, the expense and established charges of shutting off and putting on, and such other terms as the City may determine, and a satisfactory understanding with the party that no further cause for complaint shall arise. In case of such violation, the City furthermore may declare any payment made for the service by the party or parties committing such violation to be forfeited, and the same shall thereupon be forfeited.

(d) Any person violating any of the provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation. The City shall have the right of recovery from all persons, any expense incurred by the City for the repair or replacement of any sewer pipe damage in any manner by any person in the performance of any work under their control or by any negligent act.

(e) The right is reserved by the City to change the said rules, regulations and sewer rates from time to time as it may deem advisable and to make special rates and contracts in all proper cases.

(f) Any person who shall violate any of the provisions of this Chapter or rules or regulations of the City of Montreal or who shall connect a service pipe without first having obtained a permit therefor or who shall violate any provisions of the Wisconsin Statutes, Wisconsin Administrative Code or any other material which are incorporated into this Chapter by reference shall, upon conviction thereof, forfeit not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) and the costs of prosecution. This, however, shall not bar the City from enforcing the connection duties set out in Section 9-2-3 for mandatory hookup.

SEC. 9-2-10 REFUSAL TO SERVE.

(a) The City shall have no liability to furnish sewer service at the City's expense to any building or property from which wastewater will not flow by gravity to the sewer system for which construction problems would be unusual or burdensome, for which the cost of an extension of mains appears to be not economically feasible or for which case the public convenience and necessity may be in question.

(b) The City may also decline to serve an applicant if, in the judgment of the City, it does not have adequate facilities to render the service for which the applicant has applied.

(c) Any refusal to serve by the City shall be subject to review and approval by the Wisconsin Public Service Commission.

SEC. 9-2-11 DISCONNECTION OF SERVICE.

(a) Service may be disconnected or refused for any of the following reasons:
   (1) Failure to pay a delinquent account or failure to comply with the terms of a deferred payment agreement.
   (2) Violation of the City's rules and regulations pertaining to the use of service in a manner which interferes with the service of others or to the operation of nonstandard equipment if the user has first been notified and provided with a reasonable opportunity to remedy the situation.
   (3) Failure to comply with deposit or guarantee arrangements as provided for in these rules and regulations.

(b) A bill for service is delinquent if unpaid after the due date shown on the bill. The City may disconnect service for a delinquent bill by giving the user, at least eight (8) calendar days prior to disconnection, a written disconnect notice which may be included with the bill for service. For purposes of this rule, the due date shall not be less than twenty (20) days after issuance.

(c) The City may disconnect, without notice, where a dangerous condition exists for as long as the condition exists. Service may be denied to any user for failure to comply with the applicable requirements of the rules and regulations of the Public Service Commission or of these rules and regulations or if a dangerous or unsafe condition exists on the sewer user's premises.

(d) The City Health Officer shall be notified at least three (3) calendar days prior to any scheduled disconnection of residential service if the user or responsible person has made a written request for this procedure. The City shall apprise the user of this right in the disconnection notice.

(e) If service to a residential user which has been disconnected has not been restored within twenty-four (24) hours after disconnection, the utility shall notify the appropriate Sheriff's Department of the billing name and service address and that a threat to health and life might exist to persons occupying the premises.

(f) Whenever the user advises the City's designated officer prior to the disconnection of service that all or part of any billing as rendered is in dispute or that any matter related to the disconnection is in dispute, the City shall investigate the dispute promptly and completely, advise the user of the results of the investigation, attempt to resolve the dispute and provide the opportunity for the user to enter into a deferred payment agreement when applicable in order to settle the dispute.

(g) After the customer has pursued the available remedies with the City, he may request that the Public Service Commission's staff informally review the disputed issue and recommend terms of settlement.

(h) Any party to the dispute after informal review may make a written request for a formal review by the Public Service Commission. If the Commission decides to conduct a formal hearing on the dispute, the customer must pay fifty percent (50%) of the bill in dispute or post a bond for that amount on or before the hearing date. Failure to pay the amount or post the bond will constitute a waiver of the right to a hearing. Service shall not be disconnected because of any disputed matter while the disputed matter is being pursued under dispute procedures. In no way does this relieve the user from the obligation of paying charges which are not disputed.

(i) The form of disconnection notice to be used shall be as follows:

DISCONNECTION NOTICE

Dear Customer:

The bill enclosed with this notice includes your current charge for utility service and your previous unpaid balance. YOU HAVE EIGHT DAYS TO PAY THE UTILITY SERVICE ARREARS OR YOUR SERVICE IS SUBJECT TO DISCONNECTION.

If you fail to pay the service arrears or fail to contact us within the eight days allowed to make reasonable time payment arrangements, we will proceed with disconnection action.

To avoid the inconvenience of service interruption and an additional charge of $50.00 for reconnection, we urge you to pay the full arrears IMMEDIATELY.

If you have entered into a deferred payment agreement with us and have failed to make the time payments you agreed to, your service will be subject to disconnection unless you pay the amount due within eight days.

If you have a reason for delaying the payment, call us and explain the situation.

PLEASE CALL THIS TELEPHONE NUMBER, 715-561-4955, IMMEDIATELY IF:

1. You have a question about your utility service arrears.
2. You are unable to pay the full amount of the bill and are willing to enter a time payment agreement with us.
3. There are any circumstances you think should be taken into consideration before service is disconnected.
4. Any resident is serious ill.

If there is an existing medical emergency in your home and you furnish the City of Montreal with a statement signed by either a licensed Wisconsin physician or a public health official, we will delay disconnection of service up to twenty-one days. The statement must identify the medical emergency and specify the period of time during which disconnection with aggravate the existing emergency.

If, for some reason, you are unable to pay the full amount of the utility service arrears on your bill, you may contact the utility to discuss arrangements to pay the arrears over an extended period of time.

This time payment agreement will require:

1. Payment of a reasonable amount at the time the agreement is made.
2. Payment of the remainder of the outstanding balance in monthly installments over a reasonable length of time.

3. Payment of all future utility service bills in full by the due date.

In any situation where you are unable to resolve billing disputes in regard to the grounds for proposed disconnection through contracts with our utility, you may make an appeal to the Wisconsin Public Service Commission, Madison, Wisconsin.

_____
City Treasurer

SEC. 9-2-12 MISCELLANEOUS RULES AND REGULATIONS.

(a) All sewer services, charges and special assessments shall be a lien on a lot, part of a lot, or land on which sewer services were supplied. All sums which have accrued during the preceding year and which are unpaid by the first day of October of any year shall be certified to the City Clerk-Treasurer to be placed on the tax roll for collection as provided by Wisconsin Statutes.

(b) (1) A unit of service shall consist of any residential, commercial industrial or charitable aggregation of space or area occupied for a distinct purpose such as a residence, apartment, flat, store, office, industrial plant, church or school. Each unit of service shall be regarded as one (1) consumer. Suites in houses or apartments with complete housekeeping functions (such as cooking) shall be classed as apartment houses; thus houses and apartments having suites of one (1), two (2) or more rooms with toilet facilities but without kitchen for cooking are classed as rooming houses.

(2) When a user's premises has several buildings for which services are eligible and such buildings are used in the same business and connected by the user, the City shall set a separate rate for such a complex.

(c) There is hereby adopted all the rules and regulations of the State Plumbing and State Building Codes and the building rules of the Department of Industry, Labor and Human Relations, and the Department of Natural Resources of the State of Wisconsin insofar as the same are applicable to the City of Montreal.

(d) All users shall keep their own service pipes in good repair and protected from the frost at their own risk and expense and shall prevent an unnecessary

overburdening of the sewer system. All expenses relating to the connection to the sewer system shall be paid by the applicant. No charge, however, shall be made for the services of City employees in directing where and in what manner the mains shall be tapped and excavations made in the street for laying pipe.

(e) No user shall allow others or other services to connect to the sewer system through his lateral.

(f) It is expressly stipulated that no claim shall be made against the City or its agents by reason of the breaking, clogging, stoppage or freezing of any service pipe nor from any damage arising from repairing mains, making connections or extensions or any other work that may be deemed necessary. The right is hereby reserved to cut off the service at any time for the purpose of repairs or any other necessary purposes any permit granted or regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the sewer service within any district of said City, notice shall be given if practicable to each and every consumer within the affected area of the time when such service will be so shut off.

SEC. 9-2-13 SEWER USE CHARGES.

(a) It shall be the policy of the City to obtain sufficient revenues to pay the cost of:
   (1) The annual debt retirement payment on any bonded indebtedness.
   (2) The required payment on any reserve account payment.
   (3) Operation and maintenance of the sewage works, including a replacement fund (i.e., a surplus to defray the future expenditures for obtaining or installing equipment, accessories or appurtenances which are necessary to maintain the capacity and performance of the sewage works during the service life for which such works were designed and constructed) through a system of user charges as defined in this Section. The system shall assure that each user of the sewage works pays a proportionate share of the cost of such works.

(b) All sewer users shall be classified by the City as:
   (1) Residential/commercial; or
   (2) Industrial customers.

(c) Each customer shall have a water meter as provided by the City.

(d) Sewer use charges will be billed quarterly (i.e., for the periods January--March, April -- June, July -- September and October -- December).

(e) (1) User charges shall consist of (a) a minimum quarterly billing on the basis of water meter size; and (b) a unit price per volume of water utilized. Users outside the City limits shall pay an additional twenty-five percent (25%) surcharge.

   (2) The minimum quarterly billing shall be sufficient to pay the annual debt retirement and FmHA Reserve Account costs. The unit price per volume shall be sufficient to pay the annual cost of operation and maintenance, including replacement, of the sewage works.

   (3) Water meter readings shall be used to determine the actual water volume used. The unit price portion of the third quarter (i.e., July -- September) sewer bill will be based on the average volume of water used during the previous second, first and fourth quarters, except that no "zero" usage quarter will be averaged. All other quarterly sewer bills will be based on actual water used.

   (4) The City of Hurley shall provide the quarterly water meter readings of the customers residing in the City of Hurley to the City for billing purposes.

All other municipal governments in which customers of the City's sewage works reside shall provide similar water usage data to the City. If a portion of the water furnished to any customer is not discharged into the sewer system, the quantity of such water will be deducted in computing the charge for sewer service, provided a meter has been installed to measure such water. The customer must, at his own expense, make necessary changes in the water piping and install couplings so that a meter can be set. A charge of seventy-five cents (75¢) a quarter shall be made for each such meter, up to a one (1) inch meter. The charge for all other meters shall be One Dollar ($1.00) per quarter

(f) (1) The methodology of determining the user charges is given in Appendix A, which is adopted by reference, a copy of which is on file with the City Clerk-Treasurer. The City shall provide the initial estimates of water volumes, number of meters, costs, etc., to calculate the first year's user charges.

(2) The user charges and this Chapter shall be reviewed not less than annually. Such review shall be performed by the Common Council, as a committee of the whole, and the City Clerk-Treasurer. User charges shall be adjusted, as required, to reflect actual volumes of water used and actual costs.

(g) Where it is not possible to obtain a water meter reading or in cases where no water meter exists, the customer shall be assigned an average water volume by the City, based on previous meter readings, and this shall be so stated on the bill. The difference shall be adjusted when the meter is again read.

(h) Industrial customer's user charges shall be determined on the basis of:

(1) Industrial cost recovery;

(2) Volume of waste; and

(3) Strength of the waste, as well as the fixed costs, as enumerated in Section 9-2-14.

SEC. 9-2-14 INDUSTRIAL COST RECOVERY SYSTEM.

(a) The City shall recover from industrial users that portion of the Federal grant money which is allocable to the portion of the sewage treatment plant made available for the wastes from those users. All industrial users must participate in the industrial cost recovery (ICR) repayment program except as hereinafter provided.

(b) An industrial user may be excluded from the ICR requirements if (a) its waste discharge is only sanitary or domestic waste [i.e., two hundred (200) mg/l BOD or less] or (b) its flow is less than ten percent (10%) of the design plant capacity [i.e., nineteen thousand eight hundred (19,800) gallons per day]. ICR charges will be based only on the process waters of industrial establishments.

(c) Any industrial user, upon application to the City for an industrial waste permit, shall submit to the City a letter expressing its intent to have the City treat its wastes. Such letter shall include a statement of the user's intended period of use and the amount of capacity the user wishes to have reserved for treatment of its wastes. As used herein, "capacity" refers to pollutant strength as well as volume of discharge.

(d) If an industrial user discontinues use of the treatment works in the future, its payment for cost recovery will cease and the capacity formerly used by that industry will become available for increases in loading from existing users or from new industrial users who would assume their proportional share of the capital costs during the remaining portion of the recovery period.

(e) If an industry shall reduce process waste flows which enter the City's collection system during the ICR period, ICR payments for the remainder of the ICR period may be reduced by agreement between the City and the industry.

(f) The industrial costs recovery period shall be thirty (30) years and shall commence when construction of the facilities are complete and the final grant payment is made.

(g) Since the City presently has no industrial users, any new industrial user will make payments reduced by the ratio of its use period to the total ICR period. The ICR period for industry shall begin on the date use is initiated.

(h) Industrial cost recovery payments due after the initial year will be based on the results of an industrial waste monitoring program. Monitoring will be done on a regular basis but not less than once annually during periods of normal discharge for major industries. Minor industries may be monitored on a random basis. The monitoring program for each industry will reflect the industry's impact on the cost of construction of the treatment works. The cost of surveillance will be equitable between the users of varying impacts.

(i) Any industry that (a) contributes process flows greater than nineteen thousand eight hundred (19,800) gallons per day; or (b) that has a significant impact, either singly or in combination with other contributing industries, on the treatment works or the quality of its effluent will be classified as a major contributing industry.

(j) If the treatment works is upgraded or expanded with the aid of Federal financial assistance, an industrial user's ICR payments will be adjusted in proportion to the total grants allocable to the industrial user, and each industrial user's charge shall include only that portion of the grant assistance allocable to its use and the capacity firmly committed for its use.

(k) The first payment by the industrial users shall be made to the City not later than one (1) year after the beginning of the ICR period. Although options may include semi-annual, quarterly or monthly payments, a lump sum payment for the industry's entire share can be made to the City. Such a lump sum payment will not cause any discounts to be granted to the industrial user, and it will not relieve the user from additional future charges should its wastewater flow or strength have increased in the interim.

(l) The Federal grant is allocated to and the basis for ICR charges is related to the flow, BOD and any other parameters identified in the industry's letter of intent. Conditions for ICR payments and user charges shall be outlined in the required contract with said industry. An example of the industrial costs recovery methodology is presented in Appendix B, which is incorporated by reference, a copy of which is on file with the City Clerk-Treasurer.

(m) If, at any time, any participant in the industrial cost recovery program disagrees with any portion of the industrial cost recovery system or feels that inequities are present within the system, he shall proceed as follows. Appeal, in writing, to the City of Montreal, stating the nature of the disagreement or inequity and request either a written response or an opportunity to present the complaint before the Common Council. The Common Council will review all appeals, in a timely manner, and judge as to the nature and reasonableness of the complaint and shall, if necessary, review the appeal and advise the complainant of the decisions made.

(n) Any disagreement between the City and any industry, or between the City and any other political jurisdiction, or other party, which purports to relieve any industry from payment of the Federal share of the grant, or which purports to limit the power of the City to demand collection of the Federal share of the cost of construction from each industrial user will not be grounds to circumvent

or avoid the requirements of Section 204(b)(1)(B), EPA regulation or Federal ICR guidelines.

(o) In cases where the City will transport and treat wastes of industrial users located outside of the City's political jurisdiction, a written bidding agreement between the City and the political jurisdiction in which such users are located will be required as a prerequisite for obtaining an industrial waste permit. Such binding agreement shall provide that the outlying political jurisdiction will require cost recovery from industrial users in accordance with the City's system and will remit to the City all cost recovery payments which the City is required to return to the Federal government and to use for further expansion and reconstruction. The City may agree that the outlying political jurisdiction will retain the discretionary share of cost recovery.

(p) The City will maintain, for the duration of the cost recovery period, such records as are necessary to document compliance with the grant requirements.

(q) All process waters or cooling waters that have a BOD concentration of two hundred (200) mg/l or less and a suspended solids concentration of two hundred fifty (250) mg/l or less will be considered as normal strength wastewater.

(r) The ICR cost during the first year of an industry's participation will be based upon "reserved" waste strength and volume. Thereafter, ICR payments shall be determined by the capacity specified in the industry's letter of intent, or actual measurements in cases where the industry's discharge is in excess of the amounts specified therein.

(s) A ten percent (10%) surcharge shall be added to the ICR amount if the actual capacity used shall exceed the capacity specified in the industry's letter of intent. This ten percent (10%) shall be determined upon the measured flow volume and strength. The City may waive this ten percent (10%) surcharge if it determines that the treatment plant efficiency was not impaired by this overuse.

SEC. 9-2-15 PAYMENT OF SEWER BILLS.

(a) Every reasonable care will be exercised to insure proper delivery of sewer bills. Failure to receive a sewer bill, however, shall not relieve any person of the responsibility for payment of sewer charges within the prescribed period, nor exempt any person from any penalty imposed for delinquency in the payment thereof.

(b) The property owner is held responsible for all sewer bills on the premises that he owns. All notices of any nature, relative to sewer service, will be addressed to the owner and delivered to the premises referred to on such bill or notice.

SEC. 9-2-16 THROUGH 9-2-19 RESERVED FOR FUTURE USE.

ARTICLE B

Sewer Utility Rates

SEC. 9-2-20 PURPOSE OF ARTICLE.

(a) The methodology to be utilized by the City Treasurer in determining the minimum quarterly billing per customer for sewer use, as well as the variable, unit price cost for sewer use, is as follows in this Article: The user charges should be reviewed and updated no less than annually. However, if the sewer use charges are to be revised more often (i.e. semi-annually or quarterly) the same methodology can be utilized at any time. It should be noted that the values given in this Article are for example purposes only. It will be necessary for the City Treasurer to utilize the actual values for:
(1) Debt retirement;
(2) Farmers Home Administration (FmHA) reserve account requirement;
(3) Total operation and maintenance costs (i.e. including sewer maintenance);
(4) Replacement costs;
(5) Flow volumes and pounds of BOD for both Montreal and Pence; and
(6) Number of customers;
each time the sewer use costs are determined.

(b) While the debt retirement, reserve account and replacement amounts should remain constant, the other costs and number of customers may vary considerably each year.

SEC. 9-2-21 METHODOLOGY FOR DETERMINING SEWER USE CHARGES.

(a) **Minimum Billing.**
(1) The City has previously received loan monies from the Farmers Home Administration, U.S. Department of Agriculture (FmHA) for construction of the wastewater transport and treatment facilities improvements, with the amount of principal remaining being approximately Three Hundred Seventy-six Thousand Dollars ($376,000.00). The City is obligated to repay this loan, at five percent (5%) interest, up to the year 2021. The annual debt retirement payment in the amount borrowed is approximately Twenty-two Thousand Eight Hundred Dollars ($22,800.00). The annual debt retirement consists of costs related to the treatment facility, Fourteen Thousand Eight Hundred Twenty Dollars ($14,820.00) and to the sewer system rehabilitation Seven Thousand Nine Hundred Eighty Dollars ($7,980.00). In addition, FmHA requires that the City maintain a "reserve account" such that one annual debt payment would be available to the City after a period of ten (10) years. Consequently, an additional fixed cost of Two Thousand Two Hundred Eighty Dollars ($2,280.00) must be placed into the "reserve account" by the City each year for ten (10) years. Contributions to the reserve account must be made up to the year 1992. The annual reserve account consists of costs related to the treatment facility, One Thousand Four Hundred Eighty-two Dollars ($1,482.00) and to the sewer system rehabilitation, Seven Hundred Ninety-eight Dollars ($798.00). These costs must be paid by the City each year, regardless of the volume or strength of wastewater collected, transported and treated.
(2) The City of Montreal has agreed to accept wastewater for treatment from the Town of Pence. The City of Montreal and Town of Pence have agreed

to share the debt retirement and reserve fund annual payments for the wastewater treatment facilities. The percentage of the debt requirement and reserve account to be paid by each community will be based on the average of:

a. The ratio of each community's yearly flow to total flow received at the treatment plant; and
b. The ratio of each community's yearly pounds of BOD to the total pounds of BOD received at the treatment plant for each particular year.

The estimated cost sharing percentages are given in Table A1, as follows:

Table A1. Estimated Flow and BOD, and Percentage of Total: Montreal and Pence

	Flow in MGD	Percent of Total Flow	Pounds of BOD	Percent of Total BOD	Average Percentage
Montreal	0.348	87	300	88	(87 + 88 ÷ 2) = 87.5
Pence	0.052	13	41	12	(13 + 12 ÷ 2) = 12.5
Total	0.400	100	341	100	100

(3) Utilizing the cost sharing percentages developed above, the estimated cost to each community for the annual debt retirement and reserve costs for the wastewater treatment facility is given in Table A2:

Table A2. Estimated Annual Cost of Debt Retirement and Reserve Account: Montreal and Pence

	Debt Retirement		Reserve Account (FmHA)	Total
Montreal	$12,968.00	(87.5%)	$1,297.00	$14,265.00
Pence	1,852.00	(12.5%)	185.00	2,037.00
Total	$14,820.00	(100%)	$1,482.00	$16,302.00

(4) The City of Montreal's annual debt retirement and reserve fund payments for the wastewater treatment facility and sewer system rehabilitation are as follows (Table A3):

Table A3. Total Debt Retirement and Reserve Account: Montreal

	Treatment Facilities	Sewer Rehabilitation	Total
Debt Retirement	$12,968.00	$7,980.00	$20,948.00
Reserve Account	1,297.00	798.00	2,095.00
Total	$14,265.00	$8,778.00	$23,043.00

(5) Since the wastewater transport and treatment facilities have generally been designed on the basis of flow, and the customers of the City's water utility utilize water meters that are generally sized on the basis of the volume of water consumed, minimum quarterly charges will be established on the basis of water meter sizes. A system of "User Charge Factors (UCF)" is presented in Table A4 as the first step in determining minimum quarterly charges:

Table A4. User Charge Factors

Water Meter Size	Present Number of Customers	User Charge Factor	Total User Charge Factors
5/8 inch	450	1	450
3/4 inch	11	2	22
1 inch	1	4	4
1-1/2-Inch	1	6	6
City of Hurley			
5/8 inch	18	1	18
Total	481		500

(6) The minimum quarterly charge for each classification of customer can then be determined, as follows:

a. Annual Fixed Cost

Annual Debt Retirement Cost	$20,948.00
Annual Reserve Fund Cost	2,095.00
Total	$23,043.00

b. Minimum Quarterly Cost $\frac{\$23,043.00}{4} = \$5,760.75$

c. Minimum Quarterly Cost per User Charge Factor $\frac{\$5,760.75}{500} = \$11.52$

(7) The minimum quarterly charge per meter size would then be determined, as illustrated in Table A5:

Table A5. Calculation of Minimum Quarterly Charge, Per Meter Size.

Water Meter Size	User Charge Factor		Minimum Cost Per Single UCF		Cost Per User		Number of Users		Total
5/8 inch	1	x	$11.52	=	$11.52	x	450	=	$5,184.00
3/4 inch	2	x	$11.52	=	$23.04	x	11	=	253.44
1 inch	4	x	$11.52	=	$46.08	x	1	=	46.08
1-1/2 inch	6	x	$11.52	=	$69.12	x	1	=	69.12
City of Hurley									
5/8-Inch	1	x	$11.52	=	$11.52	x	18	=	207.36
Total									$5,760.00
Revenue Required									$5,760.75

(b) **Variable Quarterly Billing (Unit Price Per Volume).**

(1) The cost to operate and maintain the wastewater treatment facility and the twelve (12) inch interceptor sewer located in Montreal and utilized by Pence will also be shared by the City of Montreal and the Town of Pence. The cost sharing percentages for each community will be based on the ratio of each community's respective yearly total flow and BOD to total flow and BOD received at the treatment plant, as defined above in Table A1. The City of Montreal's share of the cost to operate and maintain the wastewater transport and treatment facilities will be paid by the Montreal users of the system on the basis of water utilized by such customers, as defined in Article A.

(2) As noted in Article A, operation and maintenance costs are defined, per the requirements of the U.S. Environmental Protection Agency, to include replacement costs. That is, a separate fund must be established in which monies will be accumulated to pay the cost "...for obtaining and installing equipment, accessories or appurtenances which are necessary to maintain the capacity of performance (of the sewage works) during (its) service life..." Replacement costs are determined utilizing the installed cost of these facilities, excluding the cost for technical, legal, administrative and other fees, since such costs will generally not be required when the item is replaced, and to assign a service life to such facilities so as to estimate when replacement will be required. A "sinking fund factor", at six (6) percent, is then utilized to determine the amount of money to be collected per year for replacement. It is anticipated that such funds will be invested by the City, in a local bank or other savings institution, until required.

The annual replacement costs of Five Thousand Six Hundred Fifteen and 37/100 Dollars ($5,615.37), for the wastewater treatment plant only, are given in Table A6 herein:

Table A6. Determination of Replacement Costs for Sewage Treatment Plant Only

Equipment, Accessories or Appurtenances	Installed Cost	Service Life (Years)	Sinking Fund Factor (6%)	Annual Cost
General Branch				
Demolition	$ 5,000.00	NRR*		$
Site Work	20,000.00	NRR		
Concrete and Rebar	45,000.00	NRR		
Steel and Miscellaneous Materials	22,000.00	NRR		
Doors, Windows and Hardware	7,500.00	30	0.01265	94.88
Carpentry and Miscellaneous	39,000.00	30	0.01265	493.35
Roofing and Sheet Metal	2,500.00	30	0.01265	31.62
Laboratory Equipment				
Furniture	5,320.00	30	0.01265	67.30
Other	4,680.00	10	0.07587	355.07
Digester Cleaning	4,000.00	NRR		
Paint	5,000.00	15	0.04296	214.80
Mechanical Branch				
Raw Sewage Pumps	7,064.00	15	0.04296	303.47
Sump Pumps	447.00	15	0.04296	19.20
Pipe and Fittings	24,250.00	NRR		
Chemical Feed Equipment	8,417.00	15	0.04296	361.59
Flash Mixer	1,897.00	15	0.04296	81.50
Flocculation Equipment	6,250.00	20	0.02718	169.88
Sand Filter Equipment	52,310.00	30	0.01265	661.72
Air Wash Blower	4,971.00	15	0.04296	213.55
Magnetic Flow Meter	6,254.00	20	0.02718	169.98
Parshall Flume	1,249.00	NRR		
Backwash Pump	1,948.00	15	0.04296	83.69
Flow Control Valve	7,456.00	30	0.01265	94.32
Furnace	9,878.00	30	0.01265	124.96
Louvers and Fire Dampers	465.00	30	0.01265	5.88
Grills and Fans	641.00	15	0.04296	27.54
Oil and Water Pipe	1,398.00	NRR		
Ductwork	5,174.00	NRR		
Plumbing Fixtures	944.00	30	0.01265	11.94
Backflow Preventer	462.00	15	0.04296	19.85
Pressure Reducing Valve	536.00	15	0.04296	23.03
Flow Gaging Manhole	4,213.00	NRR		
Sewers	17,688.00	NRR		
Forcemain and Effluent Pipe	19,980.00	NRR		
Casing Pipe	9,400.00	NRR		
Interceptor Sewer Manhole	871.00	NRR		
Rock Excavation	143.00	NRR		
Change Order M2 (culverts)	657.00	NRR		

Table A6. Determination of Replacement Costs for Sewage Treatment Plant Only (Continued)

Equipment, Accessories or Appurtenances	Installed Cost	Service Life (Years)	Sinking Fund Factor (6%)	Annual Cost
Aerated Lagoon Branch				
Clearing and Grubbing	$13,488.00	NRR		$
Excavation	14,037.00	NRR		
Embankment and Liner	92,855.00	NRR		
Access Roadway	5,401.00	NRR		
Riprap	28,685.00	NRR		
Fencing	16,988.00	30	0.01265	214.90
Manholes	9,890.00	NRR		
Influent and Effluent Piping	48,740.00	NRR		
Air Piping				
Compressors and Accessories	39,398.00	25	0.01823	718.22
Piping	21,122.00	NRR		
Blower Building	10,600.00	30	0.01265	134.09
Landscaping	6,529.00	NRR		
Monitoring Well	1,050.00	NRR		
Change Order AL 1 (pump)	100.00	15	0.04296	4.30
Change Order AL 2 (drain)	771.00	NRR		
Change Order AL 3 (rock)	3,247.00	NRR		
Electrical Branch				
Miscellaneous Non-Mat'l, Temporary	3,906.00	NRR		
Switchgear, Panels, Emergency Power	20,568.00	30	0.01265	260.19
Fixtures, Miscellaneous Lighting	2,292.00	30	0.01265	28.99
Other Equipment	248.00	30	0.01266	3.10
Switches, Receptacles, etc.	1,052.00	30	0.01265	13.31
Conduit, Fittings, etc.	4,823.00	NRR		
Wire, Numbering and Miscellaneous	3,295.00	NRR		
Instrumentation	11,533.00	15	0.04296	495.46
Flow Manhole	584.00	10	0.07587	44.31
Lagoon Building	2,643.00	30	0.01265	33.43
Change Order E1 (compressor)	400.00	10	0.07587	30.35
Change Order E2 (fixtures)	443.00	30	0.01265	5.60
Change Order E3 (circle)	585.00	NRR		
Total Annual Cost				$5,615.37

*No replacement required.

(3) While the replacement costs are fixed and must be collected from the users each year, the cost to operate and maintain the wastewater transport and treatment facilities will most probably vary from year to year, especially when the tertiary treatment facilities are utilized to any great extent in any one year versus their being utilized very sparingly in other years. For purposes of the following illustration of the method of determining the User Cost on a unit price per volume of water utilized basis, the total annual operation and maintenance costs of the treatment facility and twelve (12) inch interceptor sewer used by Pence are estimated to be Twenty Thousand Dollars ($20,000.00) per year, as given in Table A7:

Table A7. Estimated Annual Operation and Maintenance Costs: Treatment Plant and Twelve (12) Inch Interceptor Sewer

Wages and Benefits	$ 9,500.00
Power	3,100.00
Operating Supplies and Expenses	1,400.00
Laboratory Analyses	700.00
Chemicals	100.00
Repairs	200.00
Accounting	1,000.00
Administration	3,800.00
Miscellaneous	200.00
Total	$20,000.00

(4) Utilizing the cost sharing percentages given in Table A1, the operation and maintenance and replacement costs for the wastewater treatment facility and twelve (12) inch interceptor sewer used by Pence are summarized in Table A8 as follows:

Table A8. O & M and Replacement Costs: Montreal and Pence

	O & M Costs		Replacement Costs	Total
Montreal	$17,500.00	(87.5%)	$4,913.00	$22,413.00
Pence	2,500.00	(12.5%)	702.00	3,202.00
Total	$20,000.00		$5,615.00	$25,612.00

(5) The O & M costs related to the Montreal sewer system only are estimated to be Five Thousand Dollars ($5,000.00). Therefore, the total operation and maintenance and replacement costs for the City of Montreal are given in Table A9:

Table A9. Total O & M and Replacement Costs: Montreal

	O & M Costs	Replacement Costs	Total
Treatment Facilities	$17,500.00	$4,913.00	$22,413.00
and 12 Interceptor Sewer Sewer System	5,000.00	0	5,000.00
Total	$22,500.00	$4,913.00	$27,413.00

(6) For the City of Montreal customers, the User Cost on a unit price per volume of water utilized basis is determined as follows:

a. Annual Cost of Operation and Maintenance, Including Replacement = $27,413.00

b. Quarterly Cost $\frac{\$27,413.00}{4}$ = 6,853.25

c. The estimated number of customers, by meter size, and annual volume of water usage, are given in Tables A10 and A11:

Table A10. Estimated Number of Customers and Meters by Meter Size

		Meter Size			
Customer Class	Number of Customers	5/8	3/4	1	1-1/2
Residential	467*	467			
Commercial	9	1	7		1
Public	5		4	1	
Total	481	468	11	1	1

*Includes 18 in Hurley

Table A11. Estimated Total Annual Volume of Water Sold by Customer Class (1986)

Customer Class	Number of Customers	Water Sold (1,000 Gallons)
Residential	449	12,108
Commercial	9	1,566
Public	5	570
City of Hurley	18	560
Total	481	14,804 (3,701/quarter)

d. Variable User Charge Total: $\frac{\$6,853.25}{3,701} = \frac{\$1,852.00}{1,000 \text{ gal.}}$

e. Estimated water use per quarter per meter:

Meter Size	Average Quarterly Volume (gal)
5/8 inch	6,770
3/4 inch	10,450
1 inch	119,000
1-1/2 inch	300,000

f. "Variable" Quarterly Revenue:

Meter Size	Average Volume of Water Used (gal)	Cost Per 1,000 gal.	Quarterly Cost Per User	No. of Users	Quarterly Revenue
5/8 inch	6,770	$1.852	$ 12.54	468	$5,867.80
3/4 inch	10,450	1.852	19.35	11	212.89
1 inch	119,000	1.852	220.39	1	220.39
1 1/2 inch	300,000	1.852	555.60	1	555.60
Total				481	$6,856.68
Amount of Revenue Required					$6,853.25

(c) **Total Revenue:**

Meter Size	Annual Minimum Charge (Fixed)	Annual Variable Cost	Total Annual Cost	Quarterly Cost	Monthly Cost	Number of Users	Total Annual Revenue
City of Montreal							
5/8 inch	46.08	50.16	96.24	24.06	8.02	450	$43,308.00
3/4 inch	92.16	77.40	169.56	42.39	14.13	11	1,865.16
1 inch	184.32	881.56	1,065.88	266.47	88.82	1	1,065.88
1-1/2 inch	276.48	2,222.40	2,498.88	624.72	208.40	1	2,498.88
City of Hurley							
5/8 inch	46.08	50.16	96.24	24.06	8.02	18	1,732.32
Town of Pence							
Parshall Flume	2,037.00	3,202.00	5,239.00	1,309.75	436.58	1	5,239.00
Total							$55,709.24
Revenue Required							$55,695.00
Difference							$14.24

CHAPTER 3

Cable Television

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SEC. 9-3-1 DEFINITIONS.

For the purpose of this Chapter, the following terms, phrases, words, abbreviations and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense; words in the singular number include the plural number:

(a) "Affiliate," when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with such person.

(b) "Basic Cable Service" shall mean the distribution of broadcast television and nonpremium satellite programming.

(c) "CATV," "Cable Television System," or "Cable System" shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

(1) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations.

(2) A facility that serves only subscribers in one (1) or more multiple-unit dwellings under common ownership, control or management, unless such facility or facilities uses any public right-of-way.
(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of this Act (47 U.S.C.S. 201, et seq.), except that such facility shall be considered a cable system [other than for purposes of Section 621(c) (47 U.S.C.S 541(c)] to the extent such facility is used in the transmission of video programming directly to subscribers.
(4) Any facilities of any electric utility used solely for operating its electric utility systems.

(d) "Cable Channel" or "Channel" shall mean a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the Commission by regulation).

(e) "Cable Operator" or "Franchisee" or "Company" or "Grantee" shall mean any person or group of persons:
(1) Who provides cable services over a cable system and directly or through one (1) or more affiliates owns a significant interest in such cable system; or
(2) Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

(f) "Cable Service" shall mean:
(1) The one (1) way transmission to subscribers of:
a. Video programming; or
b. Other programming service.
(2) Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

(g) "Charter" shall mean the City of Montreal in legal effect.

(h) "City" shall mean the City of Montreal.

(i) "Council" shall mean the governing body of the City.

(j) "Expanded CATV Service" shall mean any communications service in addition to basic CATV service provided by the company either directly or as a carrier for their subsidiaries, affiliates or any other person engaged in communications service, including, but not by way of limitation, pay TV, burglar alarm, service, data or other electronic transmission services, facsimile reproduction services, meter reading services and home shopping services.

(k) "Federal Agency" shall mean any agency of the United States, including the Commission.

(l) "FCC" or "Federal Communications Commission" shall mean that agency as is presently constituted by the United States Congress or any successor agency with jurisdiction over CATV matters.

(m) "Franchise" shall mean an initial authorization, or renewal thereof [including a renewal of an authorization which has been granted subject to this Chapter and Section 626 (47 U.S.C.S. 546)], issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, ordinance, contract, certificate, agreement or otherwise which authorizes the construction or operation of a cable system.

(n) "Franchising Authority" shall mean any governmental entity empowered by federal, state or local law to grant a franchise.

(o) "Franchise Area" shall mean the area within the corporate limits of the City.

(p) "Grade B Contour" shall mean the filed strength of a television broadcast station computed in accordance with regulations promulgated by the Commission.

(q) "Gross Revenues" means any revenue derived within the franchise area directly or indirectly by Grantee, its affiliates, subsidiaries, parent and any person in

which Grantee has a financial interest of five percent (5%) or more from or in connection with the operation of the system, including, but not limited to, basic subscriber service monthly fees, pay cable fees, installation and reconnection fees, leased channel fees, converter rentals, enhanced telecommunications services, studio rental, production equipment and advertising revenues. The term does not include any taxes on services furnished by Grantee and imposed directly upon any subscriber or used by the state, City or other governmental unit and collected by Grantee on behalf of said governmental unit.

(r) "Other Programming Service" shall mean information that a cable operation makes available to all subscribers generally.

(s) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

(t) "Premium Services" shall mean programming services over and above those provided by Franchisee as part of its basic services for which there is an additional charge.

(u) "Property of Company" shall mean all property owned, installed or used by the Company in the conduct of a CATV business in the City.

(v) "Public, Educational or Governmental Access Facilities" means:
   (1) Channel capacity designated for public, educational or governmental use; and
   (2) Facilities and equipment for the use of such channel capacity.

(w) "Service Tier" shall mean a category of cable services or other service provided by a cable operator and for which a separate rate is charged by the cable operator.

(x) "State" shall mean any state, or political subdivision, or agency thereof.

(y) "Streets" shall mean the surface of and the space above and below any public street, road, highway, freeway, lane, path, alley, court, sidewalk, parkway, easement, right-of-way or drive, now or hereafter existing within the City.

(z) "Subscriber" shall mean any person receiving any service delivered by the CATV system.

SEC. 9-3-2 GRANT AND TERM OF FRANCHISE.

(a) **Grant of Franchise.** The City of Montreal hereby grants to Bresnan Communications Company a nonexclusive franchise to erect, install, construct, repair, replace, reconstruct, maintain and operate a cable television system. This Franchise shall be construed to authorize cable operators to use, construct and operate the cable system over public rights-of-way and through easements which are within the area to be served by the cable system and which have been dedicated for compatible uses by other persons including, but not limited to, any public utility or other Franchisee doing business within the franchise area.

(b) **Nonexclusive Grant.** The right to use and occupy said street and other public ways for the purpose herein set forth shall not be exclusive, and the City reserves the right to grant a similar use in said streets to any other person.

(c) **Term and Effective Date of Agreement.** The term of this Agreement and the Franchise granted herein shall be twelve (12) years from the effective date of this Chapter.

SEC. 9-3-3 CONDITIONS OF STREET OCCUPANCY.

(a) **Use.** All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located as not to cause interference

with the proper use of streets, alleys and other public ways and places, and not to cause interference with the rights of reasonable convenience of property owners who adjoin any of the streets, alleys or other public ways and places.

(b) **Restoration.** In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Company shall first give notice to the Director of Public Works of any contemplated disturbances of pavement, sidewalk, driveway or other surfacing and shall, at its own cost and expense and in a manner approved by the Director of Public Works, replace and restore all pavement, sidewalk, driveway or other surface of any street or alley disturbed in as good condition as before such work was commenced. The Company shall otherwise comply with the City ordinances relating to street openings.

(c) **Relocation.** If, at any time during the period of this Franchise, the City shall elect to alter or change the location or grade of any street, alley or other public way, the Company, upon reasonable notice by the City, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense. If any construction by the Company is in violation of the provisions of Subsection (a) of this Section, the Company shall likewise, upon reasonable notice by the City, remove, relay and relocate its property in such a manner as to remedy such violation at its own expense.

(d) **Placement of Fixtures.** The Company shall not place poles or other fixtures where the same will interfere with any gas, electric, telephone or other fixture, water hydrant or main; and all such poles or other fixtures placed in any street shall be placed between the outer edge of sidewalk and the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on such alley in such a manner as not to interfere with the usual travel on the streets, alleys and public ways.

(e) **Temporary Removal of Wire for Building Moving.** The Company shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expenses of such temporary removal, raising or lowering of the wires shall be paid by the person requesting the same; and the Company may require such payment in advance. The Company shall be given not less than seventy-two (72) hours' advance notice to arrange for such temporary wire changes.

(f) **Tree Trimming.** The Company, to the same extent that the City has such authority, may trim trees overhanging any streets, alleys, sidewalks and public place of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company.

SEC. 9-3-4 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.

Franchisee and the City of Montreal shall conform to all applicable laws, rules and regulations of the United States, the State of Wisconsin and the City in the construction, operation and regulation of the cable television system.

SEC. 9-3-5 SAFETY REQUIREMENTS.

(a) The Company shall, at all times, employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(b) The property of the Company, as defined in Section 9-3-1(w) shall, at all times, be kept and maintained in a safe, suitable condition and in good order and repair.

SEC. 9-3-6 INDEMNIFICATION AND INSURANCE.

The Company agrees to indemnify and save the City harmless from all loss sustained because of any suit, judgment execution, claim or demand whatsoever resulting from the construction, operation or maintenance of its Cable Television System in the City. The City shall notify the Company within ten (10) days after the presentation of any claim or demand, either by suit or otherwise, made against the City on the part of the Company. The Company shall furnish to the City, before this Franchise becomes effective, satisfactory evidence in writing that the Company has in force and will maintain in force during the term of this Franchise public liability insurance of not less than Five Hundred Thousand Dollars ($500,000.00) for bodily injury or death of any one (1) person and One Million Dollars ($1,000,000.00) for bodily injury or death of two (2) or more persons in any one (1) occurrence and One Hundred Thousand Dollars ($100,000.00) for damage to property resulting from any one (1) occurrence.

SEC. 9-3-7 SYSTEM CONSTRUCTION AND EXTENSION.

(a) The Company is hereby authorized and encouraged to extend the system to all areas within the franchise area. In no event shall the Company refuse to provide service within the franchise area based solely upon the cost factor, and all such requests for service shall be provided in accordance with Subsection (c) of this Section.

(b) The Company, whenever it shall receive a request from at least fifteen (15) subscribers within one thousand three hundred twenty (1,320) feet of its trunk cable, shall extend its system to such subscribers at no cost to the subscriber for system extension other than usual connection fees. The one thousand three hundred twenty (1,320) feet shall be measured in the extension length of the Company's cable required for service located within the public way or easement and shall not include the length of necessary service drop to the subscribers' home premises.

(c) No person, firm or corporation in the Company's service area shall be arbitrarily refused service. However, for unusual circumstances, such as requirement for underground cable, or more than one hundred fifty (150) feet of distance from distribution cable to connection of service to subscribers, or a density of less than fifteen (15) subscribers per one thousand three hundred twenty (1,320) feet of cable system, in order that existing subscribers shall not be unfairly burdened, service may be made available on the basis of a capital contribution by the prospective subscriber to Company, including reimbursement for Company's cost of materials, labor and easements.

(d) In the event additional adjacent territory is incorporated within the City's limits by annexation or otherwise, Company's rights and duties under this Chapter shall be deemed to include such additional territory.

SEC. 9-3-8 MAINTENANCE OF SYSTEM.

During the term of this Chapter, Franchisee shall maintain its cable television system in good repair and condition. The Company shall have the right, utilizing reasonable

discretion, to control the manner and location of all wire, cable, materials and other instruments; to change their location; and to change the entire system, or part thereof, and substitute another and different system or part of a system.

SEC. 9-3-9 OPERATIONAL STANDARDS.

(a) **General.** Franchisee shall construct, install, maintain and operate its cable television system in a safe, orderly and workmanlike manner utilizing only materials of good, durable quality with due respect for engineering considerations and in accordance with applicable federal, state and local laws and regulations.

(b) **Technical Performance.** The cable system shall be operated to comply with all guidelines and standards set by the FCC for signal quality and leakage. The City reserves the right to test the system and independently measure the signal quality, upon reasonable prior notice, so as not to unduly interfere with the system operation. The City shall utilize only qualified personnel for such testing. The Company reserves the right to accompany such persons to assure no damage or interference with operation of the system is incurred. The system shall comply at all times with the National Electrical Code of the National Fire Protection Association.

(c) **Restoration.** Franchisee shall promptly restore or replace the public way or private property in as good a condition as before the work causing such disturbance was done, provided, however, that where conditions prohibit prompt restoration or replacement of the public way, Franchisee's time for restoration shall be extended automatically for an appropriate period of time to complete such restoration. Franchisee shall conduct all restoration of a replacement in a competent and efficient manner minimizing disruption and inconvenience to others.

(d) **Cost of Installation, Construction, Operation of Removal; Just Compensation.** The cost of installation, construction, operation or removal of the facilities shall be borne by the cable operator. The owner of any property damaged by installation, construction, operation or removal of such facilities by the cable operator shall be justly compensated by the cable operator. This Section is not to be construed to prohibit reasonable installation charges for drops, subject to this Chapter and any and all other applicable state, federal or local laws, rules or regulations.

SEC. 9-3-10 APPROVAL OF TRANSFER.

(a) All of the rights and privileges and all the obligations, duties and liabilities created by this Chapter shall pass to and be binding upon the successors of the City and the successors and assigns of the Grantee; and the same shall not be assigned or transferred without the written approval of the City hereunder, which approval shall not be withheld without a showing of good cause, provided, however, that this Section shall not prevent the assignment or pledge of the Franchise or the system by the Grantee as security for debt without such approval; and provided further that transfers or assignments of this Franchise between any parent and subsidiary corporation or between entities of which at least fifty-one percent (51%) of the beneficial ownership is held by the Grantee or any parent corporation shall be permitted without the prior approval of the City. The sale, transfer or assignment of a material portion of the tangible assets of the Grantee to an unrelated third party shall be considered an assignment subject to the provisions of this Section. Sale, transfer or assignment does

not include giving ... uate pledges of the system as security or parts thereof in obtaining financing by the Company.

(b) The parties to the sale or transfer of this Franchise shall make a written request to the City for its approval of a sale or transfer of this Franchise.

(c) The City shall reply in writing within thirty (30) days of the request and shall indicate approval of the request or its determination that a public hearing is necessary due to potential adverse effect on the Company's subscribers.

(d) If a public hearing is deemed necessary pursuant to Subsection (c) above, such hearing shall be conducted within thirty (30) days of such determination, and notice of any such hearing shall be given fourteen (14) days prior to the hearing by publishing notice thereof once in a newspaper of general circulation in the area being served by the Franchisee. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the City.

(e) Within thirty (30) days after the public hearing, the City shall approve or deny in writing the sale or transfer request.

(f) The parties to the sale or transfer of a Franchise only without the inclusion of a cable system in which at least substantial construction has commenced shall establish that the sale or transfer of a Franchise only will be in the public interest.

(g) Grantee, upon transfer, shall, within sixty (60) days thereafter, file with the City a copy of the deed, agreement or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by the Grantee.

SEC. 9-3-11 CITY RIGHTS IN FRANCHISE.

(a) **City Rules.** The right is hereby reserved to the City to adopt, in addition to the provisions contained in this Chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power. Such regulations, by ordinance or otherwise, shall be reasonable and not be in conflict with the rights granted in this Chapter and shall not be in conflict with the laws of this State or the United States.

(b) **Use of System by City.** The City may, during the term of this Franchise, free of charge where aerial construction exists, maintain upon the poles of the Company within the City limits wire and pole fixtures necessary for a police and fire alarm system such wires and fixtures to be constructed and maintained to the satisfaction of the Company and in accordance with its specifications.

(c) **Inspection.** The City may inspect all construction or installation work during such construction or installation, or at any time after completion thereof, in order to insure compliance with the provisions of this Chapter and all other governing ordinances.

SEC. 9-3-12 FRANCHISEE FEE AND FINANCIAL REPORTING.

(a) The City reserves the right to require the Franchisee to pay to the City up to five percent (5%) of its annual gross revenues during the period of its operation under the Franchise. In the event that any service provided hereunder by the Franchisee is deemed to be a "payment in kind," the City may, at its option, direct that such service be terminated rather than suffer a reduction in the franchise payment.

(b) No acceptance of any payment by the City shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee or for the performance of any other obligation of a franchise fee or for the performance of any other obligation of Franchisee.

(c) No later than May 15 of each year, Franchisee shall present to the City an annual report of system finances which shall include gross revenues from all sources, operating expenses, net income and end-of-year balance sheet. Such report shall be provided only in the event that a franchise fee is imposed.

(d) Before imposition of any franchisee fee, the City shall give three (3) months' prior notice of the imposition of such fee which will allow the company the opportunity to appear and be heard at any meeting before imposition of such fee. Any and all such fees shall be limited to revenues within the franchise area.

SEC. 9-3-13 OPEN BOOKS AND RECORDS.

The Company shall manage all of its operations in accordance with the policy of totally open books and records vis-a-vis the City. The authorized officers of the City shall have the right to inspect, upon notice, at any time during normal business hours all books, records, maps, plans, income tax returns, financial statements, service complaint logs, performance test results, record of request for service and other like materials of the Company which relate to the operation of this Franchise.

SEC. 9-3-14 COMPANY VIOLATIONS.

Any violation by the Company, its vendor, lessee or successor of the provisions of this Franchise or any material portion or portions thereof or the failure promptly to perform any of the provisions thereof shall, after prior written notice is given to the Company, be fined up to One Hundred Dollars ($100.00) a day until proper correction is made. The City also reserves the right to forfeit this franchise and cancel all rights hereunder.

SEC. 9-3-15 RENEWAL.

(a) The Grantee shall have the right to apply to the City for renewal or extension of the Franchise. The City shall grant such renewal or extension applications unless it finds that:
   (1) The Grantee has not complied with the material terms of the Chapter and with applicable law, or its officers have been convicted of a felony;
   (2) There has been a material change in the legal, technical or financial qualifications of the Grantee that would substantially impair the continued provision of service by it;
   (3) The facilities to be provided by the Grantee are unreasonable in light of the community need for the cost of such facilities;
   (4) The signal delivered by the cable system within the control of the Grantee has not generally met technical standards as established by the FCC; or
   (5) The proposals contained in the renewal application are otherwise unreasonable.

(b) The Grantee must file for renewal at least twenty-four (24) months before the expiration of the Franchise. The City:

(1) Must consider the renewal within ninety (90) days of submission of the application and conduct any proceedings necessary to adequately consider the application; and
(2) May not request, accept or consider any other franchise application until the Grantee's application is denied or approved.

(c) The City shall:
(1) Negotiate in good faith with the Grantee regarding the Franchise renewal within thirty (30) days after the completion of proceedings pursuant to Subsection (b); and
(2) Make a final decision on granting or denying renewal within twelve (12) months after receipt of an application;
(3) In the case of denial of an application:
a. Not make the final decision for at least seven (7) months from the date of receipt of the application;
b. Notify the Grantee by written statement, within seven (7) days after the final decision, of the reasons for the denial.

(d) The Grantee, if adversely affected or aggrieved by a final decision of the City made pursuant to Subsection (c) may appeal such final decision in any court of competent jurisdiction. The franchise shall remain in effect pending the completion of such appeal.

(e) Both the City and Grantee shall comply with the Cable Communications Policy Act of 1984, Section 626, regarding renewal procedures.

SEC. 9-3-16 FAMILIARITY WITH FRANCHISE.

Grantee acknowledges and warrants by acceptance of the rights, privileges and franchise granted herein that it has carefully read and fully comprehends the terms and conditions of this Franchise Agreement and is willing to and does accept all reasonable risks of the meaning of the provisions, terms and conditions herein. Further acknowledges and states that it has fully studied and considered the requirements relating to the construction and operation of the cable system, the requirements relating to the funding for and provisions of community access equipment and services and all other requirements and provisions of the Franchise Ordinance and finds that the same are commercially practicable and consistent with all statutory requirements.

SEC. 9-3-17 COOPERATION.

The parties recognize that it is in their mutual best interests for the cable communications system to be operated as efficiently as possible. To achieve this, parties agree to cooperate with each other in accordance with the terms and provisions of this Chapter. Should either party believe that the other is not acting timely or reasonably within the confines of applicable regulations and procedures in responding to a request for action, that party shall notify the agents designated for that purpose by the other. The agent will use its best efforts to facilitate the particular action requested.

SEC. 9-3-18 WAIVER.

The failure of the City at any time to require performance by Franchisee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be

taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.

SEC. 9-3-19 COMPANY TO HOLD CITY HARMLESS.

Franchisee shall save and keep the City and its officials, boards, commissions, agents and employees free and harmless for any loss, expense or damage to person or property arising out of or resulting from any provision or requirement of the Franchise or exercising its rights or performing its duties under this Franchise.

SEC. 9-3-20 TERMINATION OF FRANCHISE.

(a) **Revocation for Cause.** This Franchise is revocable for just cause prior to its expiration for the following reasons:
   (1) Franchisee has repeatedly failed to comply with any material provisions of this Chapter.
   (2) Franchisee has repeatedly failed to comply with any material promises or covenants set forth in its applications, agreements or proposals, or in its duty to serve its subscribers.
   (3) Franchisee has repeatedly failed to comply with an order of the Federal Communications Commission, or other provisions of the Cable Communications Policy Act of 1984, or any other applicable state, federal or local law or regulations.

(b) **Voluntary Termination.** The franchising authority and the cable operator may, by mutual agreement, voluntarily terminate this Franchise before its expiration date.

(c) **Procedures for Revocation.**
   (1) Before the commencement of proceedings for revocation, the Common Council shall give notice, personally or by mail, to the Franchisee of facts or conduct which warrant the intended action.
   (2) The Franchisee shall be given an informed opportunity to show compliance with all lawful requirements for retention of the Franchise within ninety (90) days or within a reasonable period of time.
   (3) If the Common Council finds that compliance has not occurred, a formal revocation hearing may be scheduled before the Common Council. Franchisee shall be given notice of the hearing by the Common Council, personally or by mail; and the notice shall state the facts or conduct which warrant the intended action.
   (4) At such hearing before the Common Council, the Franchisee and all other interested parties may offer evidence in support of each position. The Common Council will make the determination as to whether compliance has occurred and, if not, whether noncompliance was with just cause. In the event the Common Council shall find that noncompliance exists and exists without just cause, the Common Council may fix an additional time period to cure noncompliance of the additional period, the Common Council may resolve that the franchise is revoked.
   (5) Nothing contained in the above sections of this Section shall prevent the issuance of a new franchise by the Common Council to any operator who has had a franchise revoked, if satisfactory assurances are made to the Common Council that the terms and conditions required by the City can be met by the former operator.

SEC. 9-3-21 THEFT OF SERVICE AND TAMPERING.

The City hereby agrees to provide law enforcement, prosecutorial assistance and to otherwise cooperate with the cable operator in detecting cable theft and tampering and combatting criminal acts prohibited by federal, state and local law.

SEC. 9-3-22 EQUAL EMPLOYMENT OPPORTUNITY.

Franchisee shall comply with all provisions of Section 634 of the Cable Communications Policy Act of 1984 and all rules implementing Section 634.

SEC. 9-3-23 PRIVACY.

Franchisee shall be bound by all of the provisions of Section 631 of the Cable Communications Policy Act of 1984.

SEC. 9-3-24 PUBLIC EDUCATIONAL AND GOVERNMENTAL ACCESS FACILITIES.

The Franchisee shall, upon request, make available to the City or public, educational or governmental groups within the City, acting through request of the City, channel time and space on at least one (1) channel at such reasonable times to be set by mutual agreement. Franchisee shall provide studio time, space and equipment and/or field equipment as available at the time of request. The financing of any major capital or production expenditures shall be negotiated and agreed to by the parties.

SEC. 9-3-25 MISCELLANEOUS PROVISIONS.

(a) **Governing Law.** This Chapter shall be construed pursuant to the Cable Communications Policy Act of 1984 and, to the extent consistent, the laws of Wisconsin and local ordinances.

(b) **Descriptive Headings.** Section headings are descriptive and used merely for the purpose of organization and where inconsistent with the text are to be disregarded.

(c) **Modifications.** In the event of unforeseen circumstances beyond Franchisee's control that occur in connection with the construction, installation, maintenance or operation of its cable television system, Franchisee shall have the right to petition the municipality for modifications or the terms and/or the Agreement where modifications sought by Franchisee are shown to be necessary to ensure the economic viability of its cable television system.

(d) **Severability.** If any provisions of this Chapter or any portion of any provision hereof is deemed invalid under any applicable ordinance or rule of law, such provision shall be to the extent invalid, deemed omitted and all remaining provisions shall remain in full force and effect.

(e) **Force Majeure.** In the event that Franchisee's performance of any of the terms, conditions, obligations or requirements of this Chapter is prevented or impaired due to any cause(s) beyond its reasonable control, including, but not limited to, acts of God, labor disputes, manufacturer's or contractor's inability to timely provide personnel or material, failure of transportation or any cause not reasonably foreseeable, such inability to perform shall be deemed to be excused,

and no penalties or sanctions shall be imposed as a result thereof. The Company shall not be responsible for the consequences of actual causes beyond its control.

(f) **Reservation.** The City reserves the right to regulate the Franchise in the future in any manner allowable under applicable law, including, but not limited to future changes in the law, or in rate regulation or quality of service.

(g) **Local Office; Complaints.** The Company shall maintain a local business office or agent which subscribers may telephone during regular business hours without incurring added message or toll charges so that CATV maintenance service shall be promptly available. Should a subscriber have an unresolved complaint regarding the quality of cable television service, equipment malfunctions or similar matters, the subscriber shall be entitled to file his complaint with the City Clerk, who has primary responsibility for the continuing administration of the Franchise and the procedures for resolving complaints and thereafter to meet jointly with a representative of the Council and a representative of the Company within thirty (30) days to fully discuss and resolve such matters. The Company shall notify each subscriber at the time of initial subscription to the service of the Company of the procedures for reporting and resolving such complaints.

(h) **Miscellaneous Provisions.**

(1) When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City Clerk.

(2) The Company shall assume the cost of publication of this Franchise as such publication is required by law. A bill for publication costs shall be presented to the Company by the City Clerk upon the Company's filing of acceptance and shall be paid at that time.

(3) The Company shall provide, without charge, one (1) outlet to each governmental office building, fire station and public and private school building that is passed by its cable. If more than one (1) outlet is required at any of said locations, the Company shall install at the cost of time and material only and in no event will there by a monthly service charge at said locations. The distribution of the cable facility inside such buildings and the extent thereof shall be the responsibility of the building owner.

(4) In the case of any emergency or disaster, the Company shall, upon request of the City, make available its facilities to the City for reasonable emergency use during the emergency or disaster period.

TITLE 10

Motor Vehicles and Traffic

Chapter 1 Traffic and Parking
Chapter 2 Bicycles and Play Vehicles
Chapter 3 Snowmobiles
Chapter 4 All-Terrain Vehicles and Off-Road Motor Vehicle Operation
Chapter 5 Abandoned and Junked Vehicles

CHAPTER 1

Traffic and Parking

10-1-1 State Traffic Laws Adopted
10-1-2 State Administrative Code Provisions Adopted
10-1-3 Official Traffic Signs and Control Devices; Prohibited Signs, Signals and Markers
10-1-4 Registration Record of Vehicle as Evidence
10-1-5 School Bus Warning Lights
10-1-6 Operators to Obey Traffic Control Devices
10-1-7 Restrictions on Parking; Posted Limitations
10-1-8 Temporary Parking for Special Events
10-1-9 Stopping or Parking Prohibited in Certain Specified Places
10-1-10 Parking Reserved for Vehicles of Disabled
10-1-11 Leaving Keys in Vehicle Prohibited
10-1-12 Angle Parking
10-1-13 Parking Prohibited Zones
10-1-14 Unlawful Removal of Parking Citations
10-1-15 Operation of Motor Vehicles in Public Parking Lots
10-1-16 Removal of Illegally Parked Vehicles
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10-1-18 Motor Vehicle Conduct Prohibited
10-1-19 Motor Vehicles on Pedestrian Ways and Overpasses
10-1-20 School Crossing Guards
10-1-21 Driving Over Curbing or Safety Islands Prohibited
10-1-22 Penalties
10-1-23 Enforcement

ARTICLE A

General Provisions

SEC. 10-1-1 STATE TRAFFIC LAWS ADOPTED.

(a) **Statutes Adopted.** Except as otherwise specifically provided in this Code, the statutory provisions in Chapters 340 through 349 of the Wisconsin Statutes, describing and defining regulations with respect to vehicles, traffic, and powers of the state and local authorities, exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment or exclusively state charges, are hereby adopted and by reference made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this Chapter. Any future amendments, revisions or modifications of the statutory regulations in Chapters 340 through 349 incorporated herein are intended to be made part of this Chapter in order to secure to the extent legally practicable uniform statewide regulation of vehicle traffic on the highways, streets and alleys of the State of Wisconsin. Any person who shall, within the City of Montreal, Wisconsin, violate any provisions of any Statute incorporated herein by reference shall be deemed guilty of an offense under this Section.

(b) **Statutes Specifically Incorporated by Reference.** Whenever this Chapter incorporates by reference specific sections of the Wisconsin Statutes, such references shall mean the Wisconsin Statutes of 1987-88 as from time to time amended, repealed or modified by the Wisconsin Legislature.

(c) **General References.** General references in this Chapter to Wisconsin statutory sections or chapters describing or defining procedures or authority for enactment or enforcement of local traffic regulations shall be deemed to refer to the most recent enactments of the Wisconsin Legislature describing or defining such procedures or authorities.

SEC. 10-1-2 STATE ADMINISTRATIVE CODE PROVISIONS ADOPTED.

(a) **Administrative Regulations Adopted.** The following administrative rules and regulations adopted by the Secretary of the Wisconsin Department of Transportation and published in the Wisconsin Administrative Code, exclusive of any provisions therein relating to the penalties to be imposed, are hereby adopted by reference and made part of this Chapter as if fully set forth herein.

Wis. Adm. Code - MVD 3	Reciprocity - Nonresident Motor Carriers [Penalties of Wis. Stats. Sec. 341.04 apply]
Wis. Adm. Code - MVD 4	Lettering on Vehicles, Display of Evidence of Registration and Dual Permit
Wis. Adm. Code - MVD 5	Standards for Motor Vehicle Equipment
Wis. Adm. Code - MVD 6	Transportation of Explosives by Motor Vehicle
Wis. Adm. Code - MVD 17	Transportation of Explosives by Motor Vehicle
Wis. Adm. Code - MVD 18	Protective Headgear Standards and Specifications
Wis. Adm. Code - MVD 22	Standards and Specifications - Design and Mounting SMV Emblem

(b) **Non-Compliance Prohibited.** No person shall operate or allow to be operated on any highway, street or alley within the City a vehicle that is not in conformity

with the requirements of Subsection (a) or the provisions of Sec. 110.075 and Chapter 347, Wis. Stats., incorporated by reference in Section 10-1-1 of this Chapter.

(c) **Owner's Liability.** Any owner of a vehicle not equipped as required by this Section who knowingly causes or permits such vehicle to be operated on a highway in violation of this Section is guilty of the violation the same as if he or she had operated the vehicle. The provisions of Sec. 347.04, Wis. Stats., relating to nonapplicability of demerit points shall apply to owners convicted of a violation of this Section.

(d) **Safety Checks.**

(1) Operators to Submit to Inspection. When directed to do so by any law enforcement officer, the operator of any motor vehicle shall stop and submit such vehicle to an inspection and such tests as are necessary to determine whether the vehicle meets the requirements of this Section or that the vehicle's equipment is in proper adjustment or repair. No person, when operating a motor vehicle, shall fail to stop and submit such vehicle to inspection when directed to do so by any law enforcement officer as herein provided.

(2) Authority of Officer. Any law enforcement officer serving the City is hereby empowered whenever he or she shall have reason to believe that any provision of this Section is being violated to order the operator of the vehicle to stop and to submit such vehicle to an inspection with respect to brakes, lights, turn signals, steering, horns and warning devices, glass, mirrors, exhaust systems, windshield wipers, tires and other items of equipment.

(3) Vehicle to be Removed From Highway. Whenever, after inspection as provided by this Section, a law enforcement officer determines that a vehicle is unsafe for operation, he or she may order it removed from the highway and not operated, except for purposes of removal and repair until the vehicle has been repaired as directed in a repair order. Repair orders may be in the form prescribed by the secretary of the Department of Transportation under Sec. 110.075(5), Wis. Stats., and shall require the vehicle owner or operator to cause the repairs to be made and return evidence of compliance with the repair order to the department of the issuing officer within the time specified in the order.

(e) **Penalty.** Penalty for violation of any provision of this Section, including the provisions of the Wisconsin Administrative Code, incorporated herein by reference, shall be as provided in Subsection (c) of this Section, together with the costs of prosecution and applicable penalty assessment.

SEC. 10-1-3 OFFICIAL TRAFFIC SIGNS AND CONTROL DEVICES; PROHIBITED SIGNS, SIGNALS AND MARKERS.

(a) **City Foreman to Erect and Install Uniform Traffic Control Devices.** Whenever traffic regulations created by this Chapter, including a State of Wisconsin traffic regulation adopted by reference in Section 10-1-1, require the erection of traffic control devices for enforcement, the City Foreman shall procure, erect and maintain uniform traffic control devices conforming to the Uniform Traffic Control Device Manual promulgated by the Wisconsin Department of Transportation, giving notice of such traffic regulation to the users of the streets and highways on which such regulations apply. Whenever State law grants discretion to local authorities in erecting or placement of a uniform traffic control device, devices shall be erected in such locations and in such a manner as, in the

judgment of the City Foreman will carry out the purposes of this Chapter and give adequate warning to users of the streets and highways of the City of Montreal.

(b) **Code Numbers to be Affixed to Official Traffic Control Devices.** The City Foreman shall cause to be placed on each official traffic control sign a guide board, mile post, signal or marker erected under Subsection (a), a code number assigned by the Wisconsin Department of Transportation, and shall also place or direct the placing of code numbers on all existing official traffic control devices as required by the laws of the State of Wisconsin.

(c) **Prohibited Signs and Markers in Highways.** No person other than an officer authorized by this Chapter to erect and maintain official traffic control devices or his or her designee shall place within the limits of any street or highway maintained by the City any sign, signal, marker, mark or monument unless permission is first obtained from the City Foreman or, where applicable, the State Highway Commission. Any sign, signal, marker, mark or monument placed or maintained in violation of this Subsection shall be subject to removal as provided in Subsection (d).

(d) **Removal of Unofficial Signs, Markers, Signals and Traffic Control Devices.** City Foreman may remove any sign, signal, marking or other device which is placed, maintained or displayed in violation of this Chapter or state law. Any charge imposed against premises for removal of a prohibited or illegal sign, signal, marking or device shall be reported by the City Foreman to the Common Council for review and certification at its next regular meeting following the imposition of the charge. Any charge not paid on or before the next succeeding November 15 shall be placed upon the tax roll for collection as other special municipal taxes.

State Law Reference: Sections 346.41 and 349.09, Wis. Stats.

SEC. 10-1-4 REGISTRATION RECORD OF VEHICLE AS EVIDENCE.

When any vehicle is found upon a street or highway in violation of any provision of this Chapter regulating the stopping, standing or parking of vehicles and the identity of the operator cannot be determined, the owner, as shown by the ownership registration of the vehicle supplied by the Wisconsin Department of Transportation, or a comparable authority of any other state, shall be deemed to have committed the violation for purposes of enforcement of this Chapter and specifically Section 10-1-1 and shall be subject to the applicable forfeiture penalty; provided the defenses defined and described in Sec. 346.485(5)(b), Wis. Stats., shall be a defense for an owner charged with such violation.

SEC. 10-1-5 SCHOOL BUS WARNING LIGHTS.

(a) Notwithstanding the provisions of Sec. 346.48(2)(b)2., Wis. Stats., adopted by reference in Section 10-1-1 to the contrary and except as provided in Subsection (b) below, school bus operators shall use flashing red warning lights in residential and business districts when pupils or other authorized passengers are

to be loaded or unloaded at locations at which there are no crosswalk or traffic signals so that pupils must cross the street or highway before being loaded or after being unloaded.

(b) Pursuant to Sec. 349.21(2), Wis. Stats., the use of flashing red warning lights by school bus operators is prohibited when pupils or other authorized passengers are loaded or unloaded directly from or onto the school grounds or that portion of the right-of-way between the roadway and the school grounds in a zone designated by "school" warning signs as provided in Sec. 118.08(1), Wis. Stats., in which a street or highway borders the grounds of a school.

SEC. 10-1-6 OPERATORS TO OBEY TRAFFIC CONTROL DEVICES.

When official traffic regulatory signs or devices have been posted regulating the speed, direction, stopping, parking, turning or any other control over movement of traffic, every operator of a vehicle or bicycle shall observe the traffic regulation indicated.

SEC. 10-1-7 RESTRICTIONS ON PARKING; POSTED LIMITATIONS.

(a) **Twenty-four (24) Hour Limitation.** No person, firm or corporation shall park or leave standing any automobile, truck, tractor, trailer or vehicle of any description on any public street or public parking lot in the City of Montreal for a period of twenty-four (24) or more consecutive hours in the same location at any time, except that where more restrictive parking limits have been established the more restrictive limits shall apply. When any law enforcement officer shall find a vehicle standing upon a public street or parking lot in violation of the provisions of this Section, he is authorized to move such a vehicle or to require the operator in charge thereof to move such vehicle to a position permitted under this Chapter. The law enforcement officer may cause said vehicle to be removed to a proper impoundment and storage area within the City where storage space is available and in such case the owner shall pay the costs of removing said vehicle and the storage fees on said vehicle before he may recover the possession thereof.

(b) **Posted Limitations.**

(1) The Common Council may designate certain streets or portions of streets as no parking or no stopping or standing zones or as zones for parking by physically handicapped persons and may limit the hours in which the restrictions apply. The City shall mark, by appropriate signs, each zone so designated in accordance with the provisions of Sec. 349.13, Wis. Stats.

(2) Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, no person shall stop or park a vehicle in an established no stopping or standing zone when stopping or standing is prohibited. No vehicle shall be parked in a no parking zone during hours when parking is prohibited except physicians on emergency calls or as permitted by state law or elsewhere by this Code of Ordinances.

(3) The City Foreman shall have the authority to restrict the turning or movement of heavy traffic and to impose special weight limitations on any highway or portions thereof which, because of the weakness of the roadbed due to deterioration or climatic conditions or other special or temporary conditions, would likely be seriously damaged or destroyed in the absence of any restrictions on heavy traffic movement or special weight limitations.

(4) No prohibition, restriction or limitation on parking or restriction on movement or turning of heavy traffic and imposition of special weight limits is effective unless official traffic control devices have been placed or erected indicating the particular prohibition, restriction or limitation.
(5) After the parking limitations on any given street have expired, any change of location of not more than one (1) stall following expiration of the parking period allowed shall be and constitute a violation of this Chapter.

SEC. 10-1-8 TEMPORARY PARKING FOR SPECIAL EVENTS.

Pursuant to the provisions of Subsection 349.13, Wis. Stats., the Common Council is authorized to direct that temporary "No Parking" signs be erected by the City Foreman during parades, festivals and other authorized events that require the regulating of vehicle stopping, standing or parking on City roadways. The temporary regulation shall be limited to the time the event exists or is likely to exist.

SEC. 10-1-9 STOPPING OR PARKING PROHIBITED IN CERTAIN SPECIFIED PLACES.

(a) **Parking Prohibited at All Times.** Except temporarily for the purpose of and while actually engaged in loading or unloading or in receiving or discharging passengers or property and while the vehicle is attended by a licensed operator so that it may be moved promptly in case of an emergency or to avoid obstruction of traffic, no person shall at any time park or leave standing any vehicle:
(1) Within an intersection.
(2) On a crosswalk.
(3) On a sidewalk or terrace area, except when parking in such place is clearly indicated by official traffic signs or markers or parking permits. "Terrace or Sidewalk Area" means that area between the sidewalk and the nearest curb line running parallel or generally parallel thereto or in the absence of a sidewalk ten (10) feet beyond the curb line.
(4) Alongside or opposite any highway excavation or obstruction when such stopping or standing would obstruct traffic or when pedestrian traffic would be required to travel in the roadway.
(5) On the roadway side of any parked vehicle unless double parking is clearly indicated by official traffic signs or markers.
(6) Within twenty (20) feet of the driveway entrance to a fire station.
(7) Upon any portion of a highway where and at the time when stopping or standing is prohibited by official traffic signs indicating the prohibition of any stopping or standing.
(8) In any place or manner so as to obstruct, block or impede traffic.
(9) Within ten (10) feet of a fire hydrant, unless a greater distance is indicated by an official traffic sign.
(10) Upon any portion of a highway where and at the time when parking is prohibited, limited or restricted by official traffic signs.
(11) Upon any bridge.
(12) Upon any street or highway within the City limits any vehicle which faces a direction different from the direction of normal traffic flow for the lane of traffic in which said vehicle is stopped or standing.
(13) In a loading zone.
(14) Within four (4) feet of the entrance to an alley, private road or driveway.
(15) In any municipal park when said park is closed to the public.

(16) On railroad tracks and railroad spur lines.
(17) In any area where there are existing yellow curbs and where such motor vehicles abut, park parallel or angle park to such yellow curb.

(b) **Blocking or Parking in Private Driveways.** No person shall park in any private driveway or park or leave standing any motor vehicle in such a manner as to unreasonably restrict the normal access to any private drive or driveway without the permission of the owner or lessee of the property. Said access shall be deemed unreasonably restricted if any vehicle is parked within four (4) feet of either side of said access.

(c) **Parking Vehicle for Repair or to Display for Sale Prohibited.** No person shall park or leave standing any motor vehicle on any street, avenue, alley, municipal parking lot, terrace or public right-of-way for the purpose of conducting mechanical work or to display such vehicle for sale.

SEC. 10-1-10 PARKING RESERVED FOR VEHICLES OF DISABLED.

When official traffic signs indicating such restriction have been erected in accordance with Section 10-1-3 of this Chapter, no person shall park, stop or leave standing any vehicle upon any portion of a street, highway or public or private parking facility reserved for vehicles displaying special registration plates or identification cards or emblems issued by the Wisconsin Department of Transportation or, for vehicles registered in another jurisdiction, by such other jurisdiction designating the vehicle as one used by a physically disabled person.

SEC. 10-1-11 LEAVING KEYS IN VEHICLE PROHIBITED.

No person shall permit any motor vehicle to stand or remain unattended on any street, alley or other public area, unless either the starting lever, throttle, steering apparatus, gear shift or ignition of the vehicle is locked and the key for such lock is removed from the vehicle.

SEC. 10-1-12 ANGLE PARKING.

(a) Angle parking or parking diagonally is prohibited on all the streets, alleys and highways of the City except in those places where vehicle parking markers indicate that angle parking is permissible. All vehicles shall park parallel to, and within one (1) foot of the curb except where streets and parking lots are so marked for angle parking.

(b) No person shall at any time park any vehicle:
(1) In any direction other than the designated parking angle, where angle parking spaces are so designated and provided by appropriate markings.
(2) Backwards into angle parking spaces so designated and provided by appropriate markings.
(3) With a trailer attached or any vehicle longer than twenty (20) feet on any street where angle parking is so provided and allowed.

(c) It shall be unlawful for any person to stop or park any vehicle contrary to the provisions and restrictions contained in Sec. 346.54, Wis. Stats.

SEC. 10-1-13 PARKING PROHIBITED ZONES.

(a) **Winter All-Night Parking Regulated.** When signs have been erected at or reasonably near the corporate limits of the City as provided in Sec. 349.13, Wis. Stats., no automobile, truck or other motor-drive vehicle shall be parked on any of the streets, avenues or alleys of the City of Montreal from November 1st to May 1st between the hours of 2:00 a.m. and 7:00 a.m.

(b) **Parking on Pennsylvania Avenue.** No automobile, truck or other motor-driven vehicle owned by residents on Pennsylvania Avenue between Ottawa Street and Toronto Street in the City of Montreal, Wisconsin, shall be parked on this street section of Pennsylvania Avenue described above between the hours of 8:00 a.m. and 9:00 p.m.

(c) **Parking on Nimikon Street.**
   (1) No automobile, truck or other motor-driven vehicle shall be parked on the west or east side of Nimikon Street thirty (30) feet north of the intersection of Nimikon Street and Kokogan Street.
   (2) No automobile, truck or other motor-drive vehicle shall be parked on either side of Kokogan Street going west from the intersection of Nimikon and Kokogan Street between the "No Parking" signs.

SEC. 10-1-14 UNLAWFUL REMOVAL OF PARKING CITATIONS.

No person other than the owner or operator thereof shall remove a City parking ticket from a motor vehicle.

SEC. 10-1-15 OPERATION OF MOTOR VEHICLES IN PUBLIC PARKING LOTS.

(a) **Unlicensed Operators Prohibited.** No person who does not hold a valid operator's license shall operate a vehicle in any public parking lot or in any private parking lot or ramp held out for the use of parking for the general public.

(b) **Traffic Regulations Applicable.** All provisions of Section 10-1-1 of this Chapter and of the Wisconsin Statutes and laws incorporated herein by reference shall be applicable on any public parking lot or ramp and on any private parking lot, road or ramp held out for use for the general public for parking or vehicular traffic.

SEC. 10-1-16 REMOVAL OF ILLEGALLY PARKED VEHICLES.

(a) **Hazard to Public Safety.** Any vehicle parked, stopped or standing upon a highway, municipal parking lot or other public parking area in violation of any of the provisions of this Chapter is declared to be a hazard to traffic and public safety.

(b) **Removal by Operator.** Upon request of a law enforcement officer, the operator in charge of such vehicle shall remove or cause to be removed said vehicle to a position or location where parking is permitted.

(c) **Removal by Enforcement Officer.** The law enforcement officer, after issuing a citation for illegal parking, stopping or standing of an unattended vehicle in violation of this Chapter, is authorized to remove or cause to be removed such vehicle to a position or location where parking is permitted.

(d) **Removal by Private Service.** The law enforcement officer may contract with a motor carrier holding a permit to perform vehicle towing services, a licensed

motor vehicle salvage dealer or a licensed motor vehicle dealer who performs vehicle towing services to remove and store such vehicle in any public storage area or rental parking area or any facility of the person providing the towing services.

(e) **Towing and Storage Charges.** In addition to any other penalties provided in this Chapter, the registered owner of a vehicle so removed shall be responsible for the expense of moving, towing and storage. If the vehicle is towed or stored by a private motor carrier, motor vehicle salvage dealer or licensed motor vehicle dealer, actual charges regularly paid for such services shall be paid. If the vehicle is stored in a public storage area or rental facility, customary charges for such storage shall be paid. Upon payment by the owner or operator, a receipt shall be issued for the expense of moving, towing or storage and the vehicle shall be released.

SEC. 10-1-17 INOPERABLE, WRECKED OR DISCARDED VEHICLES.

No person owning or having custody of any partially dismantled, nonoperable, wrecked, junked or discarded motor vehicle shall allow such vehicle to remain on any public highway, parking lot or ramp longer than twenty-four (24) hours after notification thereof by the Common Council or a law enforcement officer. Notification shall be accomplished by placing in a conspicuous place on the vehicle a written notice setting forth briefly the applicable provisions of this Section and the date of the notice. Any vehicle so tagged which is not removed within twenty-four (24) hours after notice is declared to be a public nuisance and may be removed as provided in Section 10-1-16.

SEC. 10-1-18 MOTOR VEHICLE CONDUCT PROHIBITED.

(a) **Unnecessary Noise Prohibited.** It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public or private area in the City.

(b) **Unnecessary Smoke Prohibited.** It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any smoke, gases or odors which are disagreeable, foul or otherwise offensive which may tend to annoy or disturb another in or about any public or private area in the City.

(c) **Unnecessary Acceleration Prohibited.** It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any stones, gravel, soil, dirt, water, snow, slush, ice, rubber or any other debris to be thrown by the wheels of such motor vehicle upon the person or property of any person in the City.

(d) **Avoidance of Traffic Control Device Prohibited.** It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and travel across private property to avoid an official traffic control device, sign or signal.

(e) **Operation in Restricted Area Prohibited.** It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and park, stop or travel upon or across any public or private property, parking lot, driveway or business service area for any purpose except the official conduct of business located on said property without the consent of the owner or lessee of the property. This Section shall specifically include but not be limited to:

(1) City park property;
(2) Cemetery properties;
(3) School District property;
(4) Medical facilities;
(5) Funeral homes;
(6) Service stations;
(7) Grocery stores;
(8) Restaurants;
(9) Financial institutions; and
(10) Other similar-type businesses with service driveways or drive-up or drive-through facilities.

(f) **Stopping and Parking Prohibited.** It shall be unlawful for any person to stop or park a motor vehicle in any manner on any public or private property or parking lot contrary to a regulatory sign posted thereon which may permit parking by certain persons and limits, restricts or prohibits parking as to other persons without the consent of the owner or lessee of the property. Any vehicle parked in violation of this Section may be removed or towed by the property owner at the vehicle owner's expense.

SEC. 10-1-19 MOTOR VEHICLES ON PEDESTRIAN WAYS.

No person shall operate or park any motor vehicle on any pedestrian way within the City of Montreal except municipal or county maintenance vehicles.

SEC. 10-1-20 SCHOOL CROSSING GUARDS.

Pursuant to Sec. 349.215, Wis. Stats., those adult persons hired by the City to act as "School Crossing Guards" shall have the authority to stop vehicular traffic and to keep it stopped as long as necessary at their respective school crossings for the purpose of permitting school children to cross the street. No operator of a vehicle shall fail or refuse to stop for a crossing guard or school crossing guard when, in the performance of his duties, he so directs by use of sign or signal.

State Law Reference: Sec. 349.215, Wis. Stats.

SEC. 10-1-21 DRIVING OVER CURBING OR SAFETY ISLANDS PROHIBITED.

(a) **Driving Over Curbing Prohibited.** It shall be unlawful for any motor vehicle to be driven or backed over any curbing in the City of Montreal.

(b) **Driving Over Safety Zones or Islands Prohibited.** Whenever safety zones or safety islands are marked in accordance with the Wisconsin Uniform Traffic Control Device Manual, no operator of a vehicle shall at any time drive through or over a safety zone or safety island.

SEC. 10-1-22 PENALTIES.

(a) **Forfeiture Penalty.** The penalty for violation of any provision of this Chapter shall be a forfeiture as hereafter provided, together with court costs and fees prescribed by Sections 814.63(1) and (2) or 814.65(1), Wis. Stats., the penalty assessment for moving traffic violations and the driver improvement surcharge

imposed by Sections 165.87 and 346.655, Wis. Stats., where applicable. Payment of the judgment and applicable court costs, fees, assessments and surcharges may be suspended by the sentencing court for not more than sixty (60) days. Any person eighteen (18) years of age or older who shall fail to pay the amount of the forfeiture, court costs, any penalty assessment or driver surcharge or other penalty imposed for violation of any provision of this Chapter may, upon order of the court entering judgment therefor and having jurisdiction of the case, be imprisoned until such forfeiture, costs and assessment are paid, but not exceeding ninety (90) days.

(b) **Other Sanctions.**

(1) By Court. Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes to suspend or revoke the operating privileges of the defendant, order the defendant to submit to assessment and rehabilitation programs or to attend traffic safety school in addition to payment of a monetary penalty or in lieu or imprisonment.

(2) By Municipality. No person who has been convicted of a violation of any provision of this Chapter shall be issued a license or permit by the City, except a dog license, until the forfeiture imposed for such violation and any penalty assessment, court costs and fees or surcharge is paid.

(c) **Forfeitures For Violation of Uniform Moving Traffic Regulations.** Forfeitures for violations of any moving traffic regulation set forth in the Wisconsin Statutes adopted by reference in Section 10-1-1 shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable Wisconsin Statute, including any variations or increases for subsequent offenses; provided, however, that this Subsection shall not be construed to permit prosecution under this Chapter for any offense described in Chapters 341 to 349, Wis. Stats., for which an imprisonment penalty or fine may be imposed upon the defendant.

(d) **Forfeitures For Parking Violations.**

(1) Forfeitures for Uniform Statewide Parking, Stopping and Standing Offenses. Minimum and maximum forfeiture for violation of non-moving traffic violations adopted by reference in Section 10-1-1 as described in Chapters 341 to 348, Wis. Stats., shall be as found in the current edition of the Revised Uniform State Traffic Deposit Schedule.

a. Any person who shall violate Sections 10-1-20(a), 10-1-28 and 10-1-29 shall, upon conviction thereof, forfeit Ten Dollars ($10.00) for each violation, plus the costs of removal to a storage area designated by the City. Each twenty-four (24) hour period shall be treated as a separate violation.

b. The forfeiture for other parking violations shall be Five Dollars ($5.00), plus the cost of prosecution should prosecution become necessary. In default of payment, the offender shall be imprisoned in the county jail until the forfeiture and costs are paid, but not to exceed five (5) days.

(e) **Special Local Regulations.** The forfeiture for violation of any special local regulation contained in this Chapter other than those pertaining to parking shall be not less than Ten Dollars ($10.00) nor more than Two Hundred Dollars ($200.00) for the first offense and not less than Twenty Dollars ($20.00) nor more than Five Hundred Dollars ($500.00) for the second offense within two (2) years.

SEC. 10-1-23 ENFORCEMENT.

(a) **Enforcement Procedures.**
  (1) How Enforced. This Chapter shall be enforced in accordance with the applicable provisions of the Wisconsin Statutes and this Section.
  (2) Applicable Court Procedures. Except where otherwise specifically provided by the laws of the State of Wisconsin or this Code, the traffic regulations in this Code shall be enforced in the Iron County Circuit Court.

(b) **Citations.**
  (1) Uniform Citation and Complaint. The Wisconsin Uniform Traffic Citation and Complaint described and defined in the Wisconsin Statutes shall be used for enforcement of all provisions of this Chapter except those provisions which describe or define non-moving traffic violations and violations of Sections 346.71 through 346.73, Wis. Stats. Violations of Sections 346.71 through 346.73, Wis. Stats., shall be reported to the District Attorney and the Wisconsin Uniform Traffic Citation shall be used in such cases.
  (2) Parking Citations. Citations shall be used in enforcing the non-moving traffic offenses in this Chapter. Such citation shall be used for enforcement of non-moving traffic regulations created or adopted by this Chapter, including violations of non-moving traffic regulations defined and described in the Wisconsin Statutes, adopted by reference in Section 10-1-1, and all provisions regarding non-moving traffic violations in this Chapter. The citation for non-moving traffic violations shall contain a notice that the person cited may discharge the forfeiture for violation of a non-moving traffic regulation and penalty thereof by complying with Subsection (c)(2) of this Section.

(c) **Deposits and Stipulations.**
  (1) Uniform Traffic Offenses.
    a. Who May Make. Persons arrested or cited for violation of moving traffic offenses created by this Chapter shall be permitted to make deposits and stipulations of no contest or released by the arresting officer in accordance with the applicable provisions of the Wisconsin Statutes. Stipulations of guilt or no contest may be made by persons arrested for violations of this Chapter in accordance with Sec. 66.12(1)(b) of the Wisconsin Statutes whenever the provisions of Sec. 345.27 of the Wisconsin Statutes are inapplicable to such violations. Stipulations shall conform to the form contained in the uniform traffic citation and complaint under Sec. 345.11 of the Wisconsin Statutes and may be accepted within five (5) days of the date of the alleged violation. Deposits are mailed directly to the Iron County Clerk of Courts. The arresting officer or the person receiving the deposit shall notify the arrested person, orally or in writing, that:
      1. If he fails to appear in court at the time fixed in the citation, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture plus costs not to exceed the amount of the deposit; or
      2. If he fails to appear in court at the time fixed in the citation and if the court does not accept the deposit as a forfeiture, he will be summoned into court to answer the complaint.
    b. Delivery or Mailing of Deposit and Stipulation. Any person stipulating guilt or no contest under the preceding Subsection must make the deposit required under Sec. 345.26 of the Wisconsin Statutes or, if the deposit is not established under such Statute, shall deposit a forfeited penalty as provided in the schedule approved by the Common Council.

Deposits may be brought or mailed to the Iron County Clerk of Courts within five (5) days of the issuance of the citation in lieu of court appearance.

c. Receipt Required. Every officer accepting a stipulation under the provisions of this Chapter shall comply with the provisions of Sections 343.27, 343.28, 345.26(1)(a) and 345.27(2) of the Wisconsin Statutes and shall require the alleged violator to sign a statement of notice in substantially the form contained on the uniform traffic citation and complaint promulgated under Sec. 345.11 of the Wisconsin Statutes. The official or person receiving the deposit shall furnish and deliver or mail an original receipt for such deposit to the alleged violator and shall deliver the deposit and stipulation, and a copy of the receipt within seven (7) days to the Iron County Clerk of Courts.

(2) Non-moving Traffic Offenses.

a. Direct Payment of Penalty Permitted. Persons cited (summons not issued) for violation of non-moving traffic offenses described and defined in this Chapter may discharge the penalty thereof and avoid court prosecution by mailing or forwarding within five (5) days of the issuance of the citation to the Iron County Clerk of Courts the minimum forfeiture specified for the violation.

b. Registration Suspension. If the alleged violator does not pay the forfeiture or appear in court in response to the citation for a non-moving traffic violation on the date specified in the citation or, if no date is specified on the citation, within twenty-eight (28) days after the citation is issued, the City may ask the Wisconsin Department of Transportation to suspend the registration of the vehicle involved or refuse registration of any vehicle owned by the person pursuant to the provisions of Sec. 345.28(4), Wis. Stats., and Subsection (c)(3) below.

(3) Registration Suspension Program.

a. The City shall participate in the Wisconsin Department of Transportation Traffic Violation and Registration Program as set forth in Sec. 345.28, Wis. Stats., and Wis. Adm. Code Trans. 128 and all amendments or changes thereto.

b. The City Clerk-Treasurer is hereby designated as a delegated authority for purposes of Sections 85.13 and 345.28, Wis. Stats., and Wis. Adm. Code Trans. 128. The City Clerk-Treasurer is authorized to perform, on behalf of the City, all functions required of a local authority under said Statutes and Code including, but not limited to:

1. Preparing and completing all forms and notices, notifying the Wisconsin Department of Transportation of unpaid citations for non-moving traffic violations;
2. Specifying whether the registration of vehicles involved in unpaid citations for non-moving traffic violations should be suspended and/or whether registration should be refused for any vehicle owned by persons with unpaid citations for non-moving traffic violations;
3. Determining the method by which the City will pay the Wisconsin Department of Transportation for administration of the program; establishing the effective date for participation;
4. And taking such other action as is necessary to institute and continue participation in the Wisconsin Department of Transportation Traffic Violation and Registration Program.

c. In addition to all applicable fines and court costs, the cost of using the Wisconsin Department of Transportation Traffic Violation and Registra-

tion Program shall be assessed as permitted by Sec. 345.28(4)(d), Wis. Stats. The City may refuse to notify the Wisconsin Department of Transportation of payment on a citation until all applicable fines and costs, including costs assessed under the preceding sentence, are paid.

d. This Subsection shall not be interpreted as requiring that all unpaid citations for non-moving traffic violations be processed through the Wisconsin Department of Transportation Traffic Violation and Registration Program. The City's participation in such program shall be in addition to any and all other means legally available to enforce such citations.

State Law Reference: Sec. 345.28, Wis. Stats.; Chapter Trans. 128, Wis. Adm. Code.

CHAPTER 2

Bicycles and Play Vehicles

10-2-1 Definitions
10-2-2 Lighting and Other Equipment
10-2-3 Parking a Bicycle
10-2-4 Rules of the Road
10-2-5 Bicycle Regulations
10-2-6 Play Vehicles
10-2-7 Bicycle Penalties
10-2-8 Play Vehicle Penalties

SEC. 10-2-1 DEFINITIONS.

As used in this Chapter:

(a) **Bicycle** means every device propelled by the feet acting upon pedals and having wheels, any two (2) of which are not less than fourteen (14) inches in diameter.

(b) **Bicycles' Lane** means that portion of a roadway set aside for exclusive use of bicycles and so designated by appropriate signs and markings by the responsible governing body.

(c) **Bike Route** means any bicycle lane, bicycle way or highway which has been duly designated by the responsible governing body and identified by appropriate signs and markings.

(d) **Bicycle Way** means any path or sidewalk, or portion thereof, designated for the use of bicycles by the responsible governing body.

(e) **Carrier** means any device attached to a bicycle designed for carrying articles.

(f) **Right-of-Way** means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

(g) **Play Vehicles** means any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.

SEC. 10-2-2 LIGHTING AND OTHER EQUIPMENT.

No person shall operate a bicycle upon a highway unless equipped as required in Sec. 347.81, Wis. Stats.

SEC. 10-2-3 PARKING A BICYCLE.

No person shall leave a bicycle at such a place or in such a way as to create a hazard to pedestrians, automobile operators or to anyone else. Bicycles shall be parked either upon the roadway against the curb, in bicycle racks or, if on the sidewalk, in such a manner as to afford the least obstruction to pedestrian traffic, and not in such a manner as to obstruct the ingress and egress to buildings used by the public. If there is no bicycle rack or other facility intended to be used for the parking of bicycles in the vicinity, the operator may park a bicycle on the sidewalk in an upright position parallel to and within twenty-four (24) inches of the curb.

SEC. 10-2-4 RULES OF THE ROAD.

The provisions of Chs. 346 and 347, Wis. Stats., and applicable City Ordinances shall govern the operation of bicycles where appropriate.

SEC. 10-2-5 BICYCLE REGULATIONS.

(a) **Rules for Turning.**
   (1) The operator of a bicycle intending to turn to the right at an intersection shall approach the point of turning in the traffic lane nearest the right-hand edge or curb of the street and, in turning, shall keep as closely as practicable to the right-hand edge or curb of the highway.
   (2) The operator of a bicycle intending to turn to the left of an intersection or into a private driveway shall make such turn from the traffic lane immediately to the right or next to the center of the street and pass immediately to the left of the center of the intersection, passing as closely as practicable to the left of the center of the intersection immediately to the right of the center of the intersection of the street.
   (3) At any intersection where traffic is controlled by a traffic control signal or by a traffic officer, it shall be unlawful for any such operator of such bicycle upon any street to disobey the instructions of any official traffic sign or signal placed in accordance with the laws of the State of Wisconsin and the Ordinances of the City.
   (4) Crosswalks shall be used when walking a bicycle through an intersection.

(b) **Trick Riding.** No person shall operate a bicycle in any manner which necessitates the element of unusual extraordinary skill and involves unnecessary risk. As used in this Section, "trick riding" may include but not be limited to any of the following bicycle operations:
   (1) Operating a bicycle without manual steering control of the handle bars;
   (2) Operating a bicycle without manual control of the hand or foot braking system;
   (3) Operating a bicycle without manual control of the foot pedals;
   (4) Operating a bicycle in any manner which causes either wheel to leave the ground; and
   (5) Any unnecessary weaving or jumping of any curb, ramp or other object.

(c) **Tandem Riding.** No person shall ride or propel a bicycle on a street in said City with another person upon said bicycle unless such bicycle is so constructed as to be a tandem bicycle.

(d) **Emerging From Alley or Driveway.** The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on said roadway.

(e) **Bicycles Not to be Pulled by Moving Vehicles.** No person riding upon a bicycle shall cling or attach himself or his bicycle to any other moving vehicle upon a street or highway, nor shall the operator of any such bicycle tow or draw any coaster wagon, sled, person on roller skates, toy vehicles or any other similar vehicle on such highway.

(f) **Speed.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions or in excess of any posted speed limit.

(g) **Operation on Sidewalks.** No person shall operate or make use of a bicycle on sidewalks in the City of Montreal in any block where a business, industry, church, school, swimming pool or park is located.

SEC. 10-2-6 PLAY VEHICLES.

(a) **Play Vehicle Streets Prohibited.** No person shall operate or make use of a play vehicle on any street in the City of Montreal.

(b) **Play Vehicle Sidewalks Prohibited.** No person shall operate or make use of a play vehicle on any sidewalk in the City of Montreal in any block where a business, industry, church, school, library, swimming pool or park is located.

(c) **Play Vehicle Areas Prohibited.** No person shall operate or make use of a play vehicle on any public parking lot, upon any School District grounds, upon any private parking lot held out for public use or upon any private driveway or private property without the owner's consent.

(d) **Responsibility of Parent or Guardian for Violation of Play Vehicle Regulations.** No parent or guardian of any child shall authorize or knowingly permit such child to violate any of the provisions of this Section.

(e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(1) Play Vehicle. Any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.

SEC. 10-2-7 BICYCLE PENALTIES.

(a) Any person sixteen (16) years of age or older who shall violate any provision of this Chapter may be issued a Uniform Traffic Citation and be subject to the penalties provided by the Uniform State Traffic Deposit Schedule.

(b) Any person fourteen (14) years of age through fifteen (15) years of age who shall violate any provisions of this Chapter may be issued a citation and be subject to the penalties provided by the Deposit Schedule and, upon conviction thereof, may be required to forfeit not more than Twenty-five Dollars ($25.00), together with the cost of the prosecution and, in default of such payment, the Court may suspend the child's operating privileges, as defined in Sec. 340.01, Wis. Stats., for not less than thirty (30) days nor more than ninety (90) days.

(c) Any person under fourteen (14) years of age who shall violate any provision of this Chapter may be issued a special Bicycle Violation Warning Notice along with the following additional actions:

(1) First offense in one (1) year: A warning letter sent to the parent or guardian.

(2) Second or third offense in the same year: The bicycle may be impounded by law enforcement authorities.

(3) Fourth and subsequent offense in the same year: Mandatory referral to Iron County Juvenile Court.

(d) Any parent or guardian of any child who authorizes or knowingly permits such child to violate any of the provisions of this Chapter may be subject to the provisions of Sections 346.77 and 346.82(1), Wis. Stats.

SEC. 10-2-8 PLAY VEHICLE PENALTIES.

(a) Any person fourteen (14) years of age and over who shall violate any provisions of this Chapter may be issued a citation and be subject to the penalties provided by the deposit schedule and, upon conviction thereof, may be required to forfeit not more than Twenty-five Dollars ($25.00), together with the costs of prosecution.

(b) Any person under fourteen (14) years of age who shall violate any provisions of this Chapter may receive an officer's report warning notice along with the following additional actions:
   (1) First offense in one (1) year: A warning letter sent to the parent or guardian.
   (2) Second or third offense in the same year: The play vehicle may be impounded by law enforcement authorities.
   (3) Fourth and subsequent offense in the same year: Mandatory referral to Iron County Juvenile Court.
   (4) Any parent or guardian of any child who authorizes or knowingly permits such child to violate any of the provisions of this Chapter may be subject to the provisions of Sections 346.77 and 346.82(1), Wis. Stats.

CHAPTER 3

Snowmobiles

10-3-1 State Snowmobile Laws Adopted
10-3-2 Applicability of Traffic Regulations to Snowmobiles
10-3-3 Speed; Hours of Operation; Equipment
10-3-4 Unattended Vehicles
10-3-5 Operation on Sidewalks Prohibited
10-3-6 Snowmobile and Other Off-Highway Vehicle Operation Restricted
10-3-7 Restrictions on Operators
10-3-8 Snowmobile Routes and Trails Designated
10-3-9 Penalty
10-3-10 Enforcement

SEC. 10-3-1 STATE SNOWMOBILE LAWS ADOPTED.

Except as otherwise specifically provided in this Chapter, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the Wisconsin Statutes are hereby adopted by reference and made part of this Chapter as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this Chapter. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

350.01 Definitions.
350.02 Operation of Snowmobiles on or in the Vicinity of Highways.
350.03 Right-of-Way.
350.04 Snowmobile Races, Derbies and Routes.
350.045 Public Utility Exemption.
350.047 Local Utility Exemption.
350.05 Operation by Youthful Operators Restricted.
350.055 Safety Certification Program Established.
350.06 Firearms and Bows.
350.07 Driving Animals.
350.08 Owner Permitting Operation.
350.09 Head Lamps, Tail Lamps and Brakes, Etc.
350.10 Miscellaneous Provisions for Snowmobile Operation.
350.12 Registration of Snowmobiles.
350.125 Completion of Application for Registration by Snowmobile Dealers.
350.13 Uniform Trail Signs and Standards.
350.15 Accidents and Accident Reports.
350.17 Enforcement.
350.18 Local Ordinances.
350.19 Liability of Landowners.
350.99 Parties to a Violation.

SEC. 10-3-2 APPLICABILITY OF TRAFFIC REGULATIONS TO SNOWMOBILES.

No person shall operate a snowmobile upon any street, highway or alley within the City of Montreal in violation of the traffic regulation provisions of Sections 346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1) and 346.94(1), (6), (6m) and (9), Wis. Stats.

SEC. 10-3-3 SPEED; HOURS OF OPERATION; EQUIPMENT.

(a) **Speed; Distance.** No person shall operate a snowmobile within the City or on any trail designated in Section 10-3-6 of this Chapter at a speed in excess of twenty (20) miles per hour or within two hundred (200) feet of any occupied building unless it is a building occupied by the operator of the snowmobile or on an approved trail with the permission of the abutting property owners.

(b) **Restriction on Equipment.** No snowmobile or other vehicle operating on the snowmobile route shall be allowed if it has an expansion chamber or any muffler other than the type and size provided by the manufacturer. Each snowmobile must display a lighted headlight and taillight at all times and said lights must conform to the requirements of Section 350.09 of the Wisconsin Statutes.

SEC. 10-3-4 UNATTENDED VEHICLES.

No person shall leave or allow a snowmobile owned or operated by him to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.

SEC. 10-3-5 OPERATION ON SIDEWALKS PROHIBITED.

No person shall operate a snowmobile upon any sidewalk, pedestrian way or upon the area between the sidewalk and the curb line of any street in the City, except as specifically authorized by Section 10-3-9 or for the purpose of crossing to obtain immediate access to an authorized area of operation.

SEC. 10-3-6 SNOWMOBILE AND OTHER OFF-HIGHWAY VEHICLE OPERATION RESTRICTED.

(a) **Permitting Operation by Improper Persons Prohibited.** No owner or person having charge or control of a snowmobile shall authorize or permit any person to operate such snowmobile who is not permitted under state law to operate such snowmobile or who is under the influence of an intoxicant or a dangerous narcotic drug.

(b) **Operation While Under Influence Prohibited.** Section 346.63, Wis. Stats., shall apply to the operation of a snowmobile any place within the City.

(c) **Operation in Parks.** No person shall drive a snowmobile in any park within the City except upon designated snowmobile trails as shall be designated by the Common Council.

(d) **Written Consent of Owner Required.** The consent required under Sec. 350.10(6), (11), (12) and (13), Wis. Stats., and in Subsection (a) above shall be written

consent dated and limited to the year in which the consent is given. If the property is owned or leased by more than one (1) person, the consent of each must be obtained.

Cross Reference: Title 10, Chapter 4.

SEC. 10-3-7 RESTRICTIONS ON OPERATORS.

(a) No person under the age of twelve (12) years may operate a snowmobile. No person over the age of twelve (12) years but under the age of sixteen (16) years may operate a snowmobile unless he holds a valid snowmobile safety certificate or is accompanied by a person over eighteen (18) years of age or by a person over fourteen (14) years of age having a snowmobile safety certificate issued by the Department of Natural Resources.

(b) No person shall operate any snowmobile upon any street, alley or other public right-of-way in the City unless such person shall have a valid motor vehicle operator's license or unless such operator is accompanied by a person who has a valid motor vehicle operator's license and who is occupying a seat on the vehicle.

State Law Reference: Sec. 350.05, Wis. Stats.

SEC. 10-3-8 SNOWMOBILE ROUTES AND TRAILS DESIGNATED.

(a) **Definitions.**
   (1) Snowmobile Routes. Routes are on State or County highways or City streets.
   (2) Snowmobile Trails. Trails are off highways or streets and are on public or private property.

(b) **Routes Designated.** Except as provided in Sections 350.02 and 350.045 of the Wisconsin Statutes, or for snowmobile events authorized in accordance with Sec. 350.04, Wis. Stats., no person shall operate a snowmobile upon any public right-of-way, in any public park or on any other public municipal property in the City except upon snowmobile routes and trails designated by resolution of the Common Council and on file with the City Clerk-Treasurer. The designated trails to be used within the City limits shall be adopted by resolution by the Common Council, a copy of which shall be on file with the City Clerk-Treasurer.

(c) **Routes and Trails Shall be Marked.** Snowmobile clubs or other private persons shall be permitted to mark all routes approved by the City before snowmobile traffic on routes is allowed. The City shall not have the duty to install and mark snowmobile routes. All routes and trail markings must be removed by the clubs or persons who installed such markings at the conclusion of each snowmobile season. The Common Council shall have the power to declare snowmobile routes and trails closed.

(d) **Rules of the Road.** Snowmobiles operated on designated snowmobile routes over public highways and streets shall observe the rules of the road for motor vehicles as set forth in Chapter 346, Wis. Stats., which is hereby adopted by reference as if set forth in full herein.

Cross Reference: Section 10-4-4.

SEC. 10-3-9 PENALTY.

Any person who shall violate any provision of this chapter shall, upon conviction thereof, forfeit not less than Twenty Dollars ($20.00) and not more than Five Hundred Dollars ($500.00), together with the costs of prosecution, and, in default of payment thereof, may be imprisoned in the county jail for not exceeding ten (10) days, provided no person shall forfeit an amount in excess of the maximum fine or forfeiture allowed in the Wisconsin Statutes for the same offense and further provided that the penalty and forfeiture for parking violations on highways shall be the amount applicable to such violations by owners or operators of motor vehicles under Title 10, Chapter 1, of this Code of Ordinances.

SEC. 10-3-10 ENFORCEMENT.

(a) **Uniform Citation for Highway Violations.** The uniform traffic citation promulgated under Sec. 345.11, Wis. Stats., shall be used for violations of this Chapter relating to highway use except as herein provided.

(b) **Parking Violations.** The special traffic citation described and defined in Title 10, Chapter 1, of this Code of Ordinances shall be used for enforcement of violations of rules of the road relating to parking of vehicles adopted by reference in Section 10-3-1 of this Chapter.

(c) **Other Violations.** All violations of this Chapter not described in Subsections (a) or (b) shall be enforced in accordance with Sections 66.12 and 66.114 of the Wisconsin Statutes. Stipulations of guilt or no contest may be made as provided in Sec. 66.12(1)(b), Wis. Stats., in substantially the form provided in the uniform traffic citation within five (5) days of the date of the citation for such violation. Bail deposits may also be made under Sec. 66.12, Wis. Stats.

CHAPTER 4

All-Terrain Vehicles and Off-Road Motor Vehicle Operation

10-4-1 State All-Terrain Vehicle Laws Adopted
10-4-2 Speed Limits
10-4-3 Penalties
10-4-4 Unauthorized Operation of Motor Vehicles on Public or Private Property

SEC. 10-4-1 STATE ALL-TERRAIN VEHICLE LAWS ADOPTED.

The provisions describing and defining regulations with respect to all-terrain vehicles in the following-enumerated Subsections of Sec. 23.33, Wis. Stats., and any future amendments or revisions, are hereby adopted by reference and made part of this Section as if fully set forth herein. Any acts required to be performed by the following Statutory Subsections or which are prohibited by such Statutory Subsections are required to be performed by this Section or are prohibited by this Section:

23.33(2)	Registration
23.33(3)	Rules of operation [including Subsections (a) through (i)]
23.33(4)	Operation on or near highway [including Subsections (a) through (e)]
23.33(5)(a)(c)	Age restrictions
23.33(6)	Equipment requirements [including Subsections (a) through (e)]
23.33(7)	Accidents [including Subsections (a) and (b)]
23.33(1)	Definitions [including Subsections (a) through (n)]

SEC. 10-4-2 SPEED LIMITS.

No person shall operate any all-terrain vehicle within the City of Montreal at a speed in excess of ten (10) miles per hour. No person may operate an all-terrain vehicle on the designated access route within the City of Montreal at a speed in excess of five (5) miles per hour.

SEC. 10-4-3 PENALTIES.

Violation of this Chapter shall be punishable by a forfeiture and enforced pursuant to Sections 10-3-10 and 10-3-11.

SEC. 10-4-4 UNAUTHORIZED OPERATION OF MOTOR VEHICLES ON PUBLIC OR PRIVATE PROPERTY.

(a) **Purpose.**
   (1) The unauthorized off-road operation of motor vehicles has resulted in serious damage to public and private lands including damage or destruction of vegetation, animal life and improvement to the lands; and
   (2) The unauthorized off-road operation of motor vehicles has resulted in the permanent scarring of land and an increase in both erosion and air pollution; and

(3) The unauthorized off-road operation of motor vehicles has resulted in collisions and near collisions threatening the life and safety of the operators of such vehicles as well as of other persons; and

(4) The unauthorized off-road operation of motor vehicles has resulted in a loss of the privacy, quietude and serenity to which the owners and users of land are rightfully entitled.

(b) **Definitions.** For purposes of this Section, the terms below shall be defined as follows:

(1) Unauthorized shall mean without the express prior consent of the owner, lessee, manager or other person authorized to give consent by the owner or lessee of land. Authorization shall not be implied from a failure to post private or public land.

(2) Off-Road shall mean any location which:

a. Is not a paved or maintained public street or alley; or

b. Is not used or maintained by the owner or lessee of land as a driveway, parking lot or other way for motor vehicles; or

c. Is a private trail for use only by the owner or his permittees for recreational or other vehicular use. Off-road shall not include any creekbed, riverbed or lake provided, however, that this Subsection shall not apply to snowmobiles or other vehicles being operated on the ice covering such creekbed, riverbed or lake.

(3) Operation shall mean the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

(4) Motor Vehicle shall mean, for purposes of this Section, any vehicle which is self-propelled and shall include but not be limited to automobiles, trucks, jeeps, vans, motorcycles, motorbikes, go-karts, motorized three-wheeled vehicles, all-terrain vehicles, mopeds, snowmobiles, dune buggies and tractors. Motor vehicle shall not mean any airplane, railroad train, boat, wheelchair or bicycle. A vehicle which would otherwise be defined as a motor vehicle under this Section shall not be so defined while:

a. It is being operated solely for the purpose of construction or maintenance of an improvement to land or solely for access to construction or maintenance sites provided such operation is by persons having legitimate business on such lands or sites;

b. It is being operated by or at the direction of public employees or utility company employees as part of their employment duties.

c. It is being operated by the holder of an easement or right of access on or over the land on which operation is occurring or the holder's employees or agents.

(c) **Unauthorized Off-road Operation Prohibited.**

(1) The unauthorized off-road operation of a motor vehicle is prohibited.

(2) Except for authorized maintenance vehicles and snowmobiles or all-terrain vehicles operating in authorized areas pursuant to Sections 10-3-9 and 10-4-2, it shall be unlawful to operate any minibike, go-kart, all-terrain vehicle or any other motor-driven craft or vehicle principally manufactured for off-highway use on the City streets, alleys, parks, sidewalks, bikeways, parking lots or on any public lands or private lands or parking lots held open to the public. The operator shall at all times have the consent of the owner before operation of such craft or vehicle on private lands.

(d) **Prohibited Use of Snowmobile Trails.** Except as provided in Subsection (b)(4) above, no person shall operate any motor vehicle other than a snowmobile on a snowmobile trail.

(e) **Prohibited Use of School Property.**

(1) It shall be unlawful for a person to engage in any off-road operation of a motor vehicle on School District property without prior approval of the District Administrator.

(2) It shall be unlawful for a person to operate any motor vehicle which is unregistered or improperly registered for highway use on any roadway or parking lot on School District property without prior approval of the District Administrator.

(3) It shall be unlawful for a person to operate any motor vehicle on School District property who does not hold a valid operator's license.

(e) **Prohibited Use of School Property.**

(1) It shall be unlawful for a person to engage in any off-road operation of a motor vehicle on School District property without prior approval of the District Administrator.

(2) It shall be unlawful for a person to operate any motor vehicle which is unregistered or improperly registered for highway use on any roadway or parking lot on School District property without prior approval of the District Administrator.

(3) It shall be unlawful for a person to operate any motor vehicle on School District property who does not hold a valid operator's license.

ORDINANCE NO. 100405
AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF MONTREAL, ARTICLE 10, CHAPTER 4,
CREATING SECTION 10-4-5, OPERATION RESTRICTED,
AS IT RELATES TO THE OPERATIONS OF ATV'S IN THE CITY OF MONTREAL
IRON COUNTY, WISCONSIN

The Common Council of the City of Montreal do ordain as follows:

(a) INTENT

The City of Montreal, Iron County adopts the following ordinance creating all-terrain vehicle routes for the operation of All Terrain Vehicles upon the roadways listed herein.

Following due consideration of value to provide recreational opportunities and weighted against the possible dangers, public health, liability aspects, terrain involved, traffic density and history of automobile traffic, these routes have been created.

Title 10 Motor Vehicles and Traffic, Chapter 4 All-Terrain Vehicles and Off-Road Motor Vehicle Operation, Section 10-4-5, Operation Restricted is hereby created, pursuant to section 23.33(8) and 23.33(11) of the Wisconsin statutes.

For the purpose of uniformity in this document the term "ATV" will have the same meaning as the term "All Terrain Vehicle" and/or "All-Terrain Vehicle".

(b) STATUTORY AUTHORITY

These routes are created pursuant to City authority as authorized by 23.33 (8)(b), Wis. Stats. This ordinance is intended to facilitate the implementation of sections 23.33(8) and 23.33(11) of the Wisconsin Statutes. To the extent necessary to accomplish this, section 23.33 of the Wisconsin Statutes is hereby adopted by reference. In the event that any provision of this ordinance is inconsistent, or conflicts with such statutes or any of them, that statute, and not this ordinance, shall control and be applied.

(c) CONDITIONS

As a condition of the use of this ATV route, the following requirements shall apply to all operators and passengers.

(1) Speed & Equipment.

a. **Speed** - No person shall operate an ATV within the City of Montreal at a speed in excess of that stated in Section 10-4-2 unless otherwise authorized by the City.
b. **Restriction on Equipment** – No ATV may be operated on any street within the City limits unless it confirms to all notice, registration and other equipment requirements as stated in the Wisconsin Statutes or the Municipal Code of the City of Montreal. All ATV's operated within City limits must, prior to operation, receive a permit from the City as described in (d)(2)b., below.

c. **Headlight** – Every ATV operating within the City must display a lighted headlight and taillight at all times, day or night and said lights must conform to the requirements of the current Wisconsin Statutes and City Ordinances.
d. **Designated Routes** – Operation of ATV's within the City is restricted to those routes signed in accordance with NR 64.12 and NR 64.12(7)c, unless otherwise allowed by statute.

(2) Operations

a. ATV's shall be operated on the extreme right side of the roadway and travel with the flow of traffic.
b. ATV's shall be operated single file with headlights and taillights in operation at all times, day or night. If a trailer is towed behind an ATV, the trailer must conform to all lighting requirements for ATV's.
c. ATV operators shall yield the right-of-way to all other vehicular traffic and pedestrians.
d. ATV's violating any of the above conditions will be subject to the penalties outlined in Wisconsin Statutes and City Ordinances.
e. Any ATV unable to reach a maximum speed of 25 MPH, must display a slow moving vehicle triangle, visible on the rear of such vehicle according to Wisconsin state statutes, governing the SMV emblems at all times while in operation on a roadway.

(3) Unattended Vehicles.

No person shall leave or allow any ATV owned or operated by him/herself to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.

(4) Operation on Sidewalks Prohibited.

No person shall operate an ATV upon any sidewalk, pedestrian way or upon the (skirt) area between the sidewalk and the curb line of any street in the City, except as specifically authorized for the purpose of legally crossing the street, from an area of private property with prior permission, to obtain immediate access to an authorized area operation.

(d) ROUTES

(1) ATV Routes Designated.

a. **Routes Designated** – Except as provided in Wis. Stats., or herein stated, no person shall operate any ATV upon any public right-of-way, in any public park or cemetery or on any other public or private property in the City except upon ATV routes designated by the City Council. There shall be certain established routes within the City limits. The routes within the City limits are those roads marked and identified in the attached and incorporated map entitled, "ATV Routes – 5/13/2008"
b. **ATV routes are described as follows:**
    1. **Trail Markers** – The Director of Public Works and City of Montreal law enforcement officers are directed and authorized to procure, erect and maintain appropriate ATV route, trail and speed limit signs and markers as

approved by the State Department of Natural Resources under Wisconsin Statutes.

2. **Trail status** – City of Montreal Law Enforcement officers shall have the power to declare the stated ATV routes and trails either open or closed. This information may be posted in the official newspaper of record.
3. **Signs and Makers to be Obeyed** – No person shall fail to obey any route or trail sign, marker or speed limit or other control device erected in accordance with this Section or traffic signal or signal under authority of Wis. Stats.

(2) ATV Travel within the City Limits

a. **ATV Travel upon City Streets** – By the authority granted by Wisconsin Statutes, the City of Montreal does hereby provide for ATV access into and from residential areas, stores and lodging establishments within the City limits of Montreal according to the guidelines set here.
b. **Permit to operate on City owned property** - An annual permit fee of $25.00 will be charged allowing ATV's to be operated upon property owned by the City of Montreal. A sticker will be issued for this purpose and shall be plainly displayed on the exterior of the machine.

(e) ENFORCEMENT

(1) Enforcement – This section shall be enforced by any law enforcement officer of the City of Montreal, Iron County, Wisconsin, or such other local, county or state law enforcement officers or authorized employees of the Department of Natural Resources.
(2) Uniform traffic citation – The uniform traffic citation promulgated under the Wisconsin Statutes shall be used for violations of this Chapter relating to highway use except as herein provided.
(3) Parking violations – The special standardized City parking ticket shall be used for enforcement of violations of rules of the road relating to parking of vehicles.
(4) Other Violations – All other violations of this Chapter not described in Subsections (a) or (b) shall be enforced in accordance with Wisconsin Statutes. Stipulations of guilt or no contest may be made as provided in Wisconsin Statutes in substantially the form provided in the uniform traffic citation within five (5) days of the date of the citation for such violation. Payment may also be made under Wisconsin Statutes.

(f) STATE FORFEITURE LAWS AND PENALTIES

All provisions of section 23.33 of the Wisconsin Statutes describing and defining regulations with respect to all-terrain vehicles of which the penalty is a forfeiture only shall be incorporated by reference. Any person who shall violate any provision herein shall, upon conviction thereof, forfeit not more than $500.00, together with the costs of prosecution and, in default of payment thereof, may be imprisoned in the county jail for a term not to exceed ten days, provided no person shall forfeit an amount in excess of the maximum fine or forfeiture allowed in Wisconsin Statutes for the same offense and further provided that the penalty and forfeiture for parking violations on highways shall be the amount applicable to such violations by owners or operators of motor vehicles under City Ordinances.

(g) SEVERABILITY

The provisions of this ordinance shall be deemed severable and it is expressly declared that the City would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons and/or circumstances shall not be deemed affected.

(h) EFFECTIVE DATE

This ordinance shall take effect upon passage and publication as required by law.

Ordinance Number _____ introduced and its adoption moved by _____; and seconded by _____.

Upon a poll vote thereon, the result was as follows:

____ Votes Cast
____ Votes Yes
____ Votes No

Passed this _____ day of _____, 2008

_____
Sue Lesky, Clerk

(f) **Fermented Malt Beverages.** Has the meaning specified under Sec. 125.02(6), Wis. Stats.
(g) **Game.** Has the meaning specified under Sec. 29.01(5), Wis. Stats.
(h) **Immediate Family.** Persons who are related as spouses, as siblings or as parent and child.
(i) **Intoxicating Liquor.** Has the meaning specified under Sec. 125.02(8), Wis. Stats.
(j) **Owner.** A person who has lawful possession of an all-terrain vehicle by virtue of legal title or (l)equitable interest in the all-terrain vehicle which entitles the person to possession of the all-terrain vehicle.
(k) **Used Exclusively for Agricultural Purposes.** Used exclusively for an agricultural use as defined under Sec. 91.01(1), Wis. Stats.
(l) **Used Exclusively for Commercial Purposes.** Includes use of an all-terrain vehicle by a dealer for demonstration purposes but does not include all-terrain vehicles leased or rented.
(m) **Used Exclusively on Land Under the Management and Control of a Person's Immediate family.** Use of an all-terrain vehicle only on land owned or leased by the person or a member of the person's immediate family over which the owner or lessee has management and control. This term excludes use of an all-terrain vehicle on land owned or leased by an organization of which the person or a member of the person's immediate family is a member.

Sec. 10-4-5 Rules of Operation

No person may operate an all-terrain vehicle:
(a) In any careless way so as to endanger the person or property of another.
(b) While under the influence of fermented malt beverages, intoxicating liquor or controlled substances.
(c) On the property of another without the express written consent of the owner or lessee. Such written consent shall be carried by the operator on his or her person at all times during operation.
(d) On Indian lands without the consent of the tribal governing body or Indian owner. Failure to post Indian lands does not imply consent for all-terrain vehicle use.
With any firearm in his or her possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung or enclosed in a carrying case.
(f) To drive or pursue any animal except as a part of normal farming operations involving the driving of livestock.
(g) When within one hundred fifty (150) feet of a dwelling at a speed exceeding ten (10) miles per hour on property for which consent to operate has been given under Subsection (c) above.
(h) When within three hundred (300) feet of a dwelling on property which adjoins or is contiguous to property for which consent to operate has been given under Subsection (c) above.

(i) On any public property, except as may otherwise be specifically provided herein.
(j) On the frozen surface of public waters within one hundred (100) feet of a person not in or on an all-terrain vehicle or motor vehicle or within one hundred (100) feet of a fishing shanty at a speed exceeding ten (10) miles per hour.
(k) In a manner which violates operation rules promulgated by the Department of Natural Resources.

Sec. 10-4-6 Operation On or Near Highways.

(a) **Freeways.** No person may operate an all-terrain vehicle upon any part of any freeway which is a part of the federal system of interstate and defense highways. No person may operate an all-terrain vehicle upon any part of any other freeway unless the Department of Transportation authorizes all-terrain vehicle use on that freeway.
(b) **Other Highways; Operation Restricted.** All-terrain vehicles may not be operated on highways except as authorized under Subsections (d) and (e) or as authorized by rules promulgated by the Department and approved by the Department of Transportation.
(c) **Exceptions; Municipal, State and Utility Operations; Races and Derbies.**
  (1) Subsections (a) and (b) do not apply to the operator of an all-terrain vehicle owned by the City, a state agency or public utility while the operator is engaged in emergency operations or in operations directly related to the functions of the City, state agency or public utility if safety does not require strict adherence to these restrictions.
  (2) Subsection (b) does not apply to a highway blocked off for special all-terrain vehicle events. The City may block off highways under its jurisdiction for the purpose of allowing special all-terrain vehicle events. No state trunk highway or connecting highway, or part thereof, may be blocked off by the City for any all-terrain vehicle race or derby. The City shall notify the local police department and the county sheriffs office at least one (1) week in advance of the time and place of any all-terrain vehicle race or derby which may result in any street, or part thereof, of the City being blocked off.
(d) **Operation on Roadway.** All-terrain vehicles may be operated on the roadway portion of any highway only in the following situations:
  (1) **To cross a roadway.** The crossing of a roadway is authorized only if the crossing is done in the most direct manner practical, if the crossing is made at a place where no obstruction prevents a quick and safe crossing and if the operator stops the all-terrain vehicle prior to the crossing and yields the right-of-way to other vehicles and pedestrians using the roadway.
  (2) **On any roadway which is not seasonally maintained for motor vehicle traffic.** Operation on this type of roadway is authorized only during the seasons when no maintenance occurs and only if the roadway is not officially closed to all-terrain vehicle traffic.

(3) **To cross a bridge, culvert or railroad right-of-way.** The crossing of a bridge, culvert or railroad right-of-way is not authorized if the roadway is officially closed to all-terrain vehicle traffic. The crossing is authorized only if the crossing is done in the most direct manner practical, if the crossing is made at a place where no obstruction prevents a quick and safe crossing and if the operator stops the all-terrain vehicle prior to the crossing and yields the right-of-way to other vehicles and pedestrians using the roadway.

(4) **On roadways which are designated as all-terrain vehicle routes**. Operation of all-terrain vehicles on a roadway which is an all-terrain vehicle route is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway which is safe given prevailing conditions.

(5) On roadways if the all-terrain vehicle is an implement of husbandry, if the all-terrain vehicle is used exclusively for agricultural purposes and if the all-terrain vehicle is registered for private use under state statute. Operation of an all-terrain vehicle which is an implement of husbandry on the roadway is authorized only for the extreme right side of the roadway, except that left turns may be made from any part of the roadway which is safe given prevailing conditions.

(e) **Operation Adjacent to Roadway.** An all-terrain vehicle may be operated adjacent to a roadway only on an all-terrain vehicle route or trail and only if the all-terrain vehicle is operated in the following manner:

(1) The all-terrain vehicle is operated at a distance of ten (10) or more feet from the roadway along U.S. numbered highways and state and county highways. Travel on the median of a divided highway is prohibited except to cross.

(2) During hours of darkness, the all-terrain vehicle is operated in the same direction as motor vehicle traffic in the nearest lane, although during daylight hours travel may be in either direction regardless of the flow of motor vehicle traffic.

(3) The all-terrain vehicle does not exceed the speed limits of the adjacent roadway.

(4) The all-terrain vehicle is operated with due regard to safety and in compliance with rules promulgated by the Wisconsin Department of Natural Resources and approved by the Wisconsin Department of Transportation.

Sec. 10-4-7 Age Restrictions.

(a) **Age Restriction.** No person under twelve (12) years of age may operate an all-terrain vehicle unless he or she is accompanied by a parent, guardian or person over eighteen (18) years of age. No person who is under twelve (12) years of age may operate an all-terrain vehicle which is an implement of husbandry on a roadway under the authorization provided under Section 10-4-6, regardless of whether he or she is accompanied by a parent, guardian or person over eighteen (18) years of age.

(b) **All-Terrain Vehicle Safety Certificate.** A person who is at least twelve (12) years of age but under sixteen (16) years of age may not operate an all-terrain vehicle unless he or she holds a valid all-terrain vehicle safety certificate or is accompanied by a person over eighteen (18) years of age. A person who is at least twelve (12) years of age but under sixteen (16) years of age may not operate an all-terrain vehicle which is an implement of husbandry on a roadway under the authorization provided under Section 10-4-6(d)(5), unless he or she holds a valid all-terrain vehicle safety certificate regardless if he or she is accompanied by a person over eighteen (18) years of age. A person who is at least twelve (12) years of age but under sixteen (16) years of age who holds an all-terrain vehicle safety certificate shall carry it while operating an all-terrain vehicle and shall display it to a law enforcement officer on request. Persons enrolled in a safety certification program approved by the Department of Natural resources may operate an all-terrain vehicle in an area designated by the instructor.

(c) **Exceptions.** Subsections (a) and (b) do not apply to a person who uses an all-terrain vehicle exclusively on land under the management and control of the person's immediate family. Subsections (a) and (b) do not apply to a person at least twelve (12) years of age but under sixteen (16) years of age who holds a valid certificate issued by another state or province of Canada.

Sec. 10-4-8 Equipment Requirements.

(a) An all-terrain vehicle operated during hours of darkness or operated during daylight hours on any all-terrain vehicle route or trail is required to display a lighted headlamp and tail lamp.

(b) The headlamp on an all-terrain vehicle is required to display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object at a distance of at least two hundred (200) feet ahead of the all-terrain vehicle.

(c) The tail lamp on an all-terrain vehicle is required to display a red light plainly visible during hours of darkness from a distance of five hundred (500) feet to the rear.

(d) Every all-terrain vehicle is required to be equipped with at least one (1) brake operated either by hand or foot.

(e) Every all-terrain vehicle is required to be equipped with a functioning muffler to prevent excessive or unusual noise.

Sec. 10-4-9 Accidents.

(a) If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident to the Onalaska Police

CHAPTER 5

Abandoned and Junked Vehicles

10-5-1 Abandoned Vehicles; Definitions
10-5-2 Removal and Impoundment of Vehicles
10-5-3 Removal, Storage, Notice or Reclaimer of Abandoned Vehicles
10-5-4 Disposal of Abandoned Vehicles
10-5-5 Report of Sale or Disposal
10-5-6 Owner Responsible for Impoundment and Disposal Costs
10-5-7 Conflict with Other Code Provisions
10-5-8 Junked Vehicles and Appliances on Private Property

SEC. 10-5-1 ABANDONED VEHICLES; DEFINITIONS.

(a) **Abandonment of Vehicles Prohibited.** No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the City of Montreal for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in the City of Montreal or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than twenty-four (24) hours, the vehicle shall be deemed abandoned and constitutes a public nuisance.

(b) **Definitions.** For purposes of this Chapter, the following definitions shall be applicable:
   (1) Vehicle shall mean a motor vehicle, trailer, semitrailer or mobile home, whether or not such vehicle is registered under Wisconsin Law.
   (2) Unattended shall mean unmoved from its location with no obvious sign of continuous human use.
   (3) Street shall mean any public highway or alley and shall mean the entire width between the boundary lines of any public way where any part thereof is open to the public for purposes of vehicular traffic.

(c) **Presumptions.** For purposes of this Section, the following irrebuttable presumptions shall apply:
   (1) A vehicle shall be presumed unattended if it is found in the same position twenty-four (24) hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during said twenty-four (24) hours.
   (2) Any vehicle left unattended for more than twenty-four (24) hours on any public street or public ground or left unattended for more than twenty-four (24) hours on private property without the consent of the property owner is deemed abandoned and constitutes a nuisance; provided, that the vehicle shall not be deemed abandoned under this Subsection if left unattended on private property outside of public view and is enclosed within a building, or if designated as not abandoned by the Common Council or a law enforcement officer.

(d) **Exceptions.** This Section shall not apply to a vehicle in an enclosed building or a vehicle stored on a premises licensed for storage of junk or junked vehicles and fully in compliance with City zoning regulations, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.

SEC. 10-5-2 REMOVAL AND IMPOUNDMENT OF VEHICLES.

Any vehicle in violation of this Chapter shall be removed and impounded until lawfully claimed or disposed of under the provisions of Section 10-5-3.

SEC. 10-5-3 REMOVAL, STORAGE, NOTICE OR RECLAIMER OF ABANDONED VEHICLES.

(a) **Applicability.** The provisions of this Section shall apply to the removal, storage, notice, reclaimer or disposal of abandoned vehicles as defined in Section 10-5-1.

(b) **Removal.** Any law enforcement officer who discovers any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the City of Montreal which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.

(c) **Storage and Reclaimer.** Any abandoned vehicle which is determined by the law enforcement authority serving the City to be abandoned shall be retained in storage for a period of fourteen (14) days after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner and/or secured party of record with the Wisconsin Motor Vehicle Division, except that if the law enforcement authority serving the City determines an abandoned vehicle to have a value of less than One Hundred Dollars ($100.00), or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, it may be junked or sold by direct sale to a licensed salvage dealer after having been retained in storage for a period of seven (7) days and after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner or secured party of record with the Wisconsin Motor Vehicle Division, provided that it is first determined that the vehicle is not reported stolen or wanted for evidence or other reason. All substantially complete vehicles in excess of nineteen (19) model years of age shall be deemed as a having value in excess of One Hundred Dollars ($100.00). Any such vehicle which may be lawfully reclaimed may be released upon the payment of all accrued charges, including towing, storage and notice charges and upon presentation of the vehicle title or other satisfactory evidence to the law enforcement authority serving the City to prove an ownership or secured party interest in said vehicle.

(d) **Notice to Owner or Secured Party.** Certified mail notice, as referred to herein, shall notify the Wisconsin titled owner of the abandoned vehicle, if any, and/or the secured party of record with the Wisconsin Motor Vehicle Division, if any, of the following:

(1) That the vehicle has been deemed abandoned and impounded by the City of Montreal;

(2) The "determined value" of the abandoned vehicle;

(3) If the cost of towing and storage costs will exceed the determined value of the vehicle;

(4) That if the vehicle is not wanted for evidence or other reason, the vehicle may be reclaimed upon the payment of all accrued charges, including towing, storage and notice charges, within fourteen (14) days of the date of notice, unless the vehicle has been determined to have a value less than One Hundred Dollars ($100.00) or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, in which case the vehicle may be reclaimed within seven (7) days upon the payment of the aforesaid charges; and

(5) That the owner or aforesaid secured party may, upon request, be granted a hearing relating to the determinations made with respect to said vehicle within the period that such vehicles may be reclaimed.

SEC. 10-5-4 DISPOSAL OF ABANDONED VEHICLES.

Any abandoned vehicle impounded by the City which has not been reclaimed or junked or sold by direct sale to a licensed salvage dealer pursuant to the provisions of this Chapter may be sold by public auction sale or public sale calling for the receipt of sealed bids. A Class I Notice, including the description of the vehicles, the name(s) and address(es) of the Wisconsin titled owner and secured party of record, if known, and the time of sale shall be published before the sale.

SEC. 10-5-5 REPORT OF SALE OR DISPOSAL.

Within five (5) days after the direct sale or disposal of a vehicle as provided for herein, the Chief of Police or his designee shall advise the State of Wisconsin Department of Transportation, Division of Motor Vehicles, of such sale or disposal on a form supplied by said Division. A copy of the form shall be given to the purchaser of the vehicle enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have ten (10) days to remove the vehicle from the storage area but shall pay a reasonable storage fee established by the City for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten (10) days after the sale the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the City shall be made available to any interested person or organization which makes a written request for such list to the law enforcement officer serving the City.

SEC. 10-5-6 OWNER RESPONSIBLE FOR IMPOUNDMENT AND DISPOSAL COSTS.

(a) The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the City against the owner.
(b) Payment of removal and impoundment costs is not required when the vehicle has been impounded for purposes of law enforcement investigation.

SEC. 10-5-7 CONFLICT WITH OTHER CODE PROVISIONS.

In the event of any conflict between this Section and any other provisions of this Municipal Code, this Chapter shall control.

SEC. 10-5-8 JUNKED VEHICLES AND APPLIANCES ON PRIVATE PROPERTY.

(a) **Storage of Automobiles Restricted.** No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery or appliances shall be stored unenclosed outside a building upon private property within the City for a period exceeding ten (10) days unless it is in connection with an authorized business enterprise located in a properly zoned area maintained in such a manner as to not constitute a public nuisance.

(b) **Definitions.**

(1) The term "disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers" as used in this Section is defined as follows: motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion, being operated upon the public streets or highways or which is otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.

(2) The term "unlicensed - motor vehicles, truck bodies, tractors or trailers" as used in this Chapter is defined as follows: motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.

(3) The term "motor vehicle" is defined in Sec. 340.01(35), Wis. Stats.

(4) The term "inoperable appliance" is defined as any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.

(c) **Exceptions.** This Section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and manner in a properly zoned area when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or seasonal use vehicles such as snowmobiles, motorcycles, motor scooters and nonmotorized campers, provided such vehicles are stored in compliance with the Ordinances of the City of Montreal. Also excepted are motor vehicles registered pursuant to Sections 341.265 and 341.266, Wis. Stats. In other situations the Common Council may issue temporary permits permitting an extension of not to exceed an additional thirty (30) days' time to comply with this Section where exceptional facts and circumstances warrant such extension. Such permits shall not be renewable.

(d) **Enforcement.**

(1) Whenever the Common Council or law enforcement officer serving the City shall find any vehicles or appliances, as described herein, placed or stored in the open upon private property within the City, they shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this Section. If said vehicles or appliance is not removed within five (5) days, the Common Council or law enforcement officer serving the City shall cause to be issued a citation to the property owner or tenant of the property upon which said vehicle or appliance is stored.

(2) If such vehicle or appliance is not removed within twenty (20) days after issuance of a citation, the Common Council or law enforcement officer serving the City shall cause the vehicle or appliance to be removed and impounded, and it shall thereafter be disposed of as prescribed in Sections 10-5-3 through 10-5-6. Any cost incurred in the removal and sale of said vehicle or appliance shall be recovered from the owner. However, if the owner of the vehicle or appliance cannot readily be found, the cost

of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll, pursuant to Sec. 66.60(16), Wis. Stats.

(e) **Penalty.** Any person who shall interfere with the enforcement of any of the provisions of this Section and shall be found guilty thereof shall be subject to a penalty as provided in Section 1-1-7. Each motor vehicle or appliance involved shall constitute a separate offense.

State Law Reference: Sec. 342.40, Wis. Stats.

TITLE 11

Offenses and Nuisances

Chapter 1 State Statutes Adopted
Chapter 2 Offenses Against Public Safety and Peace
Chapter 3 Offenses Against Property
Chapter 4 Offenses Involving Alcoholic Beverages
Chapter 5 Offenses by Juveniles
Chapter 6 Public Nuisances

CHAPTER 1

State Statutes Adopted

11-1-1 Offenses Against State Laws Subject to Forfeiture

SEC. 11-1-1 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.

The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the City provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

29.288	Throwing Refuse in Waters
48.17	Jurisdiction -- Civil Law and Ordinance Violations
48.343	Dispositions -- Civil Law and Ordinance Violations
48.344	Dispositions -- Intoxicating Liquor and Beer Violations
48.345	Disposition of Child Adjudged in Need of Protection
48.983	Use of Tobacco Products
50.58	Careless Smoking
118.07	Safety Requirements
118.08	School Zones; Crossings
118.09	Safety Zones
118.10	School Safety Patrols
118.105	Control of Traffic on School Premises
118.11	School Fences
118.123	Reports and Records
118.163	Truancy
167.10	Fireworks Regulated
175.25	Illegal Storage of Junked Vehicles
939.05(2)(b)	Aiding and Abetting
939.22	Words and Phrases Defined
940.19(1)	Battery
940.291	Failure of a Police Officer to Render Aid
941.01	Negligent Operation of a Vehicle
941.10	Negligent Handling of Burning Materials
941.12(2),(3)	Interfering With or Failing to Assist in Firefighting

941.13	False Alarms and Interference with Firefighting
941.20(1)	Reckless Use of Weapon
941.23	Carrying Concealed Weapon
941.235	Carrying a Firearm in a Public Building
941.24	Possession of Switchblade Knife
941.35	Emergency Telephone Calls
941.36	Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes
941.37(1),(2)	Obstructing Emergency or Rescue Personnel
942.05	Opening Letters
943.01(1)	Criminal Damage to Property
943.11	Entry Into Locked Vehicle
943.125	Entry Into Locked Coin Box
943.13	Trespass to Land
943.14	Trespass to Dwellings
943.145	Criminal Trespass to a Medical Facility
943.15	Entry Into Locked Site
943.20(3)(a)	Theft of Property
943.21(3)(a)	Fraud on Innkeeper
943.22	Cheating Tokens
943.23(4),(5)	Operating Vehicle Without Owner's Consent
943.34(1)(a)	Receiving Stolen Property
943.37	Alteration of Property Identification Marks
943.38(3)	Forgery
943.41	Credit Card Crimes
943.50(4)(a)	Retail Theft
943.55	Removal of a Shopping Cart
944.15	Fornication
944.17	Sexual Gratification
944.20	Lewd and Lascivious Behavior
944.21	Obscene Material or Performance
944.23	Making Lewd, Obscene or Indecent Drawings
944.30	Prostitution
944.31	Patronizing Prostitutes
944.33	Pandering
944.36	Solicitation of Drinks Prohibited
945.01	Definitions Relating to Gambling
945.02	Gambling
945.04	Permitting Premises to be Used for Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42(2)	Escape
946.46	Encouraging Violation of Probation or Parole
946.69	Falsely Assuming to Act as Public Officer or Employee
946.70	Impersonating Peace Officer
946.72(2)	Tampering with Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.013	Harassment
947.047	Littering Shores
947.06	Unlawful Assemblies
948.01	Definitions Relating to Crimes Against Children
948.09	Sexual Intercourse With a Child Age 16 or Older
948.10	Exposing a Sex Organ

948.11(1)(b)	Exposing a Child to Harmful Material
948.21	Neglecting a Child
948.40	Contributing to the Delinquency of a Child
948.50	Strip Search by School Employee
948.51(3)(a)	Hazing
948.60	Possession of a Dangerous Weapon by a Child
948.61(2)(a)	Dangerous Weapons on School Premises
948.63	Receiving Property From a Child
951.01	Definitions Relating to Crimes Against Animals
951.015	Construction and Application
951.02	Mistreating Animals
951.03	Dognapping or Catnapping
951.04	Leading Animal from Motor Vehicle
951.05	Transportation of Animals
951.06	Use of Poisonous and Controlled Substances
951.07	Use of Certain Devices Prohibited
951.08	Instigating Fights Between Animals
951.09	Shooting at Caged or Staked Animals
951.10	Sale of Baby Rabbits, Chicks and Other Fowl
951.11	Artificially Colored Animals; Sale
951.13	Providing Proper Food and Drink to Confined Animals
951.14	Providing Proper Shelter
951.15	Animals; Neglected or Abandoned; Police Powers
951.16	Investigation of Animal Cruelty Complaints
951.17	Reimbursement for Expenses

CHAPTER 2

Offenses Against Public Safety and Peace

11-2-1 Regulation of Firearms and Explosives
11-2-2 Safe Use and Transportation of Firearms and Bows
11-2-3 Sale and Discharge of Fireworks Restricted
11-2-4 Obstructing Streets and Sidewalks Prohibited
11-2-5 Loitering Prohibited
11-2-6 Loud and Unnecessary Noise Prohibited
11-2-7 Disorderly Conduct
11-2-8 Unauthorized Presence on School Property
11-2-9 Truancy
11-2-10 Failure to Obey Lawful Order

SEC. 11-2-1 REGULATION OF FIREARMS AND EXPLOSIVES.

(a) **Discharge of Firearms Regulated.** No person, except a police officer or other law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description other than for target practice, within the City of Montreal.

(b) **Shooting Into City Limits.** No person shall in the territory adjacent to the City discharge any firearm in such manner that the discharge shall enter or fall within the City.

(c) **Shooting Ranges.** This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Common Council where proper safety precautions are taken.

(d) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City without first obtaining a permit to do so from the Common Council.

(e) **Hunting Prohibited.** Discharging a firearm or bow and arrow while hunting is prohibited within the corporate limits of the City of Montreal.

(f) **Definitions.** For purposes of this Section, a firearm is defined as any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.

SEC. 11-2-2 SAFE USE AND TRANSPORTATION OF FIREARMS AND BOWS.

(a) **Definitions.** In this Section:
  (1) Aircraft has the meaning given under Sec. 114.002(3), Wis. Stats.
  (2) Encased means enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.
  (3) Firearm means a weapon that acts by force of gunpowder.
  (4) Highway has the meaning given under Sec. 340.01(22), Wis. Stats.
  (5) Motorboat has the meaning given under Sec. 30.50(6), Wis. Stats.
  (6) Roadway has the meaning given under Sec. 340.01(54), Wis. Stats.

(7) Unloaded means any of the following:
   a. Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
   b. In the case of a cap lock muzzle-loading firearm, having the cap removed.
   c. In the case of a flint lock muzzle-loading firearm, having the flashpan cleaned of powder.

(8) Vehicle has the meaning given under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.

(b) **Prohibitions; Motorboats and Vehicles; Highways and Roadways.**

(1) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.

(2) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.

(3) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.

(4) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.

(5) A person who violates Subsections (1) through (4) above is subject to a forfeiture pursuant to Section 1-1-7.

(c) **Exceptions.**

(1) Subsection (b) does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within fifty (50) feet of the center of a roadway:
   a. A peace officer, as defined under Sec. 939.22(22), Wis. Stats.
   b. A member of the U.S. armed forces.
   c. A member of the National Guard.

(2) Subsections (b)(1), (2) and (3) do not apply to the holder of a scientific collector permit under Sec. 29.17, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.

(3) Subsections (b)(2) and (3) do not apply to the holder of a permit under Sec. 29.09, wis. Stats., who is hunting from a standing automobile in accordance with that Subsection.

SEC. 11-2-3 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the City unless he shall be authorized by a fireworks permit as provided in Title 7, Chapter 6, of this Code of Ordinances. The term "fireworks" as used in this Section shall be defined as provided in Section 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

SEC. 11-2-4 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

(a) **Obstructing Streets.** No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the City in such a manner as to:
   (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;
   (2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or
   (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.

(b) **Obstructing Sidewalk Prohibited.** No person shall block any sidewalk or bridge by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.

(c) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
   (1) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
   (2) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Montreal.
   (3) Obstruct. To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such sidewalk.
   (4) Sidewalk. Any sidewalk owned or maintained by the City. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.

SEC. 11-2-5 LOITERING PROHIBITED.

(a) **Public Property Loitering Prohibited.**
   (1) No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any police officer.
   (2) Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

(b) **Private Property Loitering Prohibited.**
   (1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places.
   (2) Upon being requested to move by any such person in authority or by any police officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

(c) **Loitering or Prowling Prohibited.** No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or

peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Subsection if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

(d) **Loitering by Underage Persons Where Alcohol Beverage is Dispensed.**
   (1) Underage Persons and Intoxicants. No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
   (2) Permitting Loitering Prohibited. No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
   (1) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
   (2) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Montreal.

SEC. 11-2-6 LOUD AND UNNECESSARY NOISE PROHIBITED.

No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley or park or any private property.

SEC. 11-2-7 DISORDERLY CONDUCT.

(a) **Disorderly Conduct Prohibited.** No person within the City of Montreal shall:
   (1) In any public or private place engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to annoy or disturb any other person.
   (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation.

(b) **Defecating or Urinating in Public Places.** It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the City, or upon any private property in open view of the public, or in

the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings, or to indecently expose his person.

(c) **Indecent Conduct and Language Prohibited.** No person shall use any indecent, vile, profane or obscene language or conduct himself in any indecent, lewd, lascivious or obscene manner within the City.

SEC. 11-2-8 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY.

(a) **Unauthorized Presence.**

(1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him from attending any school located within the City or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person," shall be present within any school building or upon any school grounds without having first secured authorization to be there from the principal or other person in charge of the school building or school grounds, except while in direct route to secure such authorization.

(2) Any unauthorized person who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal, in addition to violating Subsection (a)(1), shall be guilty of trespass.

(3) "Authorized person" shall include:

a. Any person who is present at any school building or school grounds for the purpose previously authorized by the school or their designee;

b. Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel;

c. Any person utilizing a designated area for attending an athletic or other organized school event.

(b) **Disorderly Conduct on Public School Property.**

(1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School System's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.

(3) All entrances to the school buildings referred to in Subsection (a) shall be posted with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."

(4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a City summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property.

(c) **Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in

any school building in the City of Montreal or upon any School District grounds or within adjacent posted school zones on any day when such schools are in session.

(d) **Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property.

(e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.

(1) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.

(2) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Montreal.

SEC. 11-2-9 TRUANCY.

(a) **Contributing to Truancy.**

(1) Except as provided in Subsection (a)(2) below, any person eighteen (18) years of age or older, who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in Subsection (a)(4), of a child shall be subject to a forfeiture pursuant to Section 1-1-7.

(2) Subsection (1) above does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.50(7)(h), Wis. Stats.

(3) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be a truant.

(4) "Truancy" means any absence of part or all of one (1) or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of Sec. 118.15, Wis. Stats.

(b) **Parent or Guardian Liability for Truancy.**

(1) Unless the child is excepted or excused under Sec. 118.15, Wis. Stats., or has graduated from high school, any person having under control a child who is between the ages of six (6) and eighteen (18) years shall cause the child to attend school regularly during the full period of hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes eighteen (18) years of age.

(2) a. A person found to have violated Subsection (b)(1) above, after evidence is provided by a school official that the activities under Sec. 118.16(5), Wis. Stats., have been completed, shall be subject to a forfeiture pursuant to Section 1-1-7.

b. Subsection (b)(2)a above does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.50(7)(h), Wis. Stats., nor does it apply if the person proves that he or she is unable to comply with Subsection (b)(1) because of the disobedience of the child.

SEC. 11-2-10 FAILURE TO OBEY LAWFUL ORDER.

It shall be unlawful for any person to fail to obey the direction or order of a police officer while such police officer is acting in an official capacity in carrying out his or her duties.

CHAPTER 3

Offenses Against Property

11-3-1 Destruction of Property Prohibited
11-3-2 Littering Prohibited
11-3-3 Abandoned Refrigerators Prohibited
11-3-4 Theft of Library Material

SEC. 11-3-1 DESTRUCTION OF PROPERTY PROHIBITED.

(a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the City and belonging to the City or its departments, the School District or to any private person, without the consent of the owner or proper authority.

(b) **Parental Liability.** Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed Two Thousand Five Hundred Dollars ($2,500.00).

(c) **Unlawful Removal of Property.** It shall be unlawful for any person to take and carry away the property of another without the owner's consent with the intention to do so.

SEC. 11-3-2 LITTERING PROHIBITED.

(a) **Littering Prohibited.** No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the City, or upon property within the City owned by the School District or any private person, or upon the surface of any body of water within the City.

(b) **Litter From Conduct of Commercial Enterprise.**

(1) Scope. The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.

(2) Litter to be cleaned up. Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.

(3) Litter picked up at litterer's expense. If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the City shall arrange to have the same picked up by City crews or by private enterprise. Applicable bidding procedures shall be used for any arrangement for the use of private enterprise to pick up such litter. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the

advice of the City Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.

(c) **Depositing of Materials Prohibited.** It shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Common Council or City Foreman pursuant to the provisions of this Code of Ordinances, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.

(d) **Handbills.**

(1) Scattering Prohibited. It shall be unlawful to deliver any handbills or advertising material to any premises in the City except by being handed to the recipient, placed on the porch, stoop or entrance way of the building or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.

(2) Papers in Public Places Prohibited. It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

SEC. 11-3-3 ABANDONED REFRIGERATORS PROHIBITED.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

SEC. 11-3-4 THEFT OF LIBRARY MATERIAL.

(a) **Definitions.** For the purposes of this Section, certain words and terms are defined as follows:

(1) Archives. A place in which public or institutional records are systematically preserved.

(2) Library. Means any public library, library of an educational or historical organization or society or museum, and specifically the public libraries within the City of Montreal and school libraries.

(3) Library Material. Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documents, written or printed materials, regardless of physical form of characteristics, belonging to, on loan to or otherwise in the custody of a library.

(b) **Possession Without Consent Prohibited.** Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code. The failure to return library material after its proper return date, after written notice from the library and City Attorney, shall be deemed to be theft. Notice shall be considered given when written notice is mailed to the last-known address of the person with the overdue material; the notice date shall be the date of mailing.

(c) **Concealment.** The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

(d) **Detention Based on Probable Cause.** An official or adult employee or agent of a library who has probable cause for believing that a person has violated this Section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this Section entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

(e) **Damaging Material Prohibited.** No person shall mar, deface or in any other way damage or mutilate any library material.

(f) **Return Demanded.** No person shall fail, on demand, to return any library material when such demand has been made in accordance with the rules and regulations duly made and adopted by the library.

State Law Reference: Section 943.61, Wis. Stats.

CHAPTER 4

Offenses Involving Alcoholic Beverages

11-4-1 Outside Consumption
11-4-2 Sale to Underage or Intoxicated Persons Restricted
11-4-3 Underage Persons' Presence in Places of Sale; Penalty
11-4-4 Underage Persons; Prohibitions; Penalties
11-4-5 Defense of Sellers
11-4-6 Persons Who Have Attained the Legal Drinking Age; False or Altered Identification Cards
11-4-7 Possession of Alcohol Beverages on School Grounds
11-4-8 Adult Permitting or Encouraging Underage Violation
11-4-9 Solicitation of Drinks Prohibited

SEC. 11-4-1 OUTSIDE CONSUMPTION.

(a) **Alcoholic Beverages in Public Areas.**

(1) Regulations. It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the City or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in his possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, public alley or public parking lot within the City except as licensed premises.

(2) Private Property Held Out For Public Use. It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the City unless the property is specifically named as being part of a licensed premises.

(3) Leaving Licensed Premises With Open Container.

a. It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.

b. It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcohol beverage.

(4) Exceptions.

a. The provisions of this Section may be waived by the Common Council for duly authorized events.

b. Any organization which has been issued a special Class "B" fermented malt beverage picnic license pursuant to this Code of Ordinances, provided that the provisions of this Chapter and Title 7, Chapter 2, are fully complied with.

(b) **Definitions.**

(1) As used in this Section, the term "alcoholic beverage" shall include all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated or degerminated grains or sugar, which contain

one-half (1/2) of one percent (1%) or more of alcohol by volume and which are fit for use for beverage purposes.

(2) As used in this Section, the term "public area" shall be construed to mean any location within the City which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.

(3) As used in this Chapter "underage person" shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

Cross Reference: Section 7-2-16.

SEC. 11-4-2 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.

(a) **Sales of Alcohol Beverages to Underage Persons.**

(1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or procure for, sell, dispense or give away any intoxicating liquor to any underage person.

(2) No license or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age or sell, vend, deal or traffic in intoxicating liquor to or with any underage person.

(b) **Penalties.** A person who commits a violation of Subsection (a) above is subject to a forfeiture of:

(1) Not more than Five Hundred Dollars ($500.00) if the person has not committed a previous violation within twelve (12) months of the violation; or

(2) Not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00) if the person has committed a previous violation within twelve (12) months of the violation.

(3) In addition to the forfeitures provided in Subsections (1) and (2) above, the Common Council shall suspend any license issued under Title 7 of this Code to a person violating this Section pursuant to Section 125.07(1)(b)3, Wis. Stats.

(c) **Sale of Alcohol Beverages to Intoxicated Persons.**

(1) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.

(2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

(d) **Penalties.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) or imprisoned for not more than sixty (60) days or both.

State Law Reference: Section 125.07, Wis. Stats.

SEC. 11-4-3 UNDERAGE PERSONS' PRESENCE IN PLACES OF SALE; PENALTY.

(a) **Restrictions.** An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcohol

beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:

(1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.

(2) An underage person who enters or is on a "Class A" retail intoxicating liquor premises for the purpose of purchasing edibles or beverages other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.

(3) Hotels, drug stores, grocery stores, bowling alleys, cars operated by any railroad, regularly established athletic fields, stadiums or public facilities as defined in Sec. 125.51(5)(b)1.d, Wis. Stats., which are owned by a county or municipality.

(4) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.

(5) Ski chalets, golf clubhouses and private tennis clubs.

(6) Premises operated under both a Class "B" fermented malt beverage or "Class B" alcohol beverage license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

(7) An underage person who enters or remains on a Class "B" or "Class B" premises for the purpose of transacting business at an auction or market as defined in Sec. 125.32(4)(b)1, Wis. Stats., if the person does not enter or remain in a room where alcohol beverages are sold or furnished.

(8) An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served for the purpose of engaging in marching or drilling with a group of other persons if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this Subsection. An underage person may enter and remain on Class "B" alcoholic beverage or "Class B" fermented malt beverage premises under this Subsection only if the municipality which issued the Class "B" fermented malt beverage or "Class B" alcoholic beverage license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this Subsection and the law enforcement agency responsible for enforcing the ordinance issues to the Class "B" alcoholic beverage or "Class B" fermented malt bevera licensee a written authorization permitting underage persons to be present under this Subsection on the date specified in the authorization. Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

(b) **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) is subject to a forfeiture of not more than Five Hundred Dollars ($500.00).

SEC. 11-4-4 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.

(a) Any underage person who does any of the following is guilty of a violation:
  (1) Procures or attempts to procure alcohol beverages.
  (2) Knowingly possesses or consumes intoxicating liquor.
  (3) Enters or is on licensed premises in violation of Section 11-4-3(a).
  (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
  (5) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information.
  (6) Makes, alters or duplicates an official identification card.
  (7) Presents false information to an issuing officer in applying for an official identification.
  (8) Intentionally carries an identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the documentation is false.
  (9) Provides to another underage person an official identification card or other documentation purporting to show that the other underage person has attained the legal drinking age, with knowledge that the documentation is false.

(b) Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverage is guilty of a violation.

(c) Any person violating Subsections (a) or (b) is subject to the following penalties:
  (1) For a first violation, a forfeiture of not more than Fifty Dollars ($50.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
  (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not more than One Hundred Dollars ($100.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
  (3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture of not more than One Hundred Fifty Dollars ($150.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.

(d) (1) If the Court orders a person to participate in a supervised work program under Subsection (d), the Court shall set standards for the program within the budgetary limits established by the Common Council. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.
  (2) The supervised work program shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age

level and physical ability and shall be combined with counseling from an agency staff member or other qualified person. The program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.

(e) When a court revokes or suspends a person's operating privilege under Subsection (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.

(f) A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 48.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Sec. 48.344(3), Wis. Stats.

(g) Subsections (a) and (b) do not prohibit an underage person employed by a licensee or permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.

(h) Subsections (a) and (b) do not prohibit an underage person employed by a brewery, a winery or a facility for the rectifying or manufacture of intoxicating liquor or the production of fuel alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

SEC. 11-4-5 DEFENSE OF SELLERS.

(a) **Defenses.** Proof of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this Section:
   (1) That the purchaser falsely represented in writing and supported with other documentary proof that he or she had attained the legal drinking age.
   (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age.
   (3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.

(b) **Book Kept by Licensees and Permittees.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purpose of this Subsection. The licensee or permittee or his or her employee shall require any person who has shown documentary proof that he or she has attained the legal drinking age to sign the book if the person's age is in question. The book shall show the date of the purchase of the alcohol beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

State Law Reference: Section 125.07(6) and (7), Wis. Stats.

SEC. 11-4-6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE; FALSE OR ALTERED IDENTIFICATION CARDS.

(a) (1) Any person who has attained the legal drinking age, other than one authorized by Sec. 125.08 or Sec. 343.50, Wis. Stats., who makes, alters or duplicates an official identification card, who provides an official identifi-

cation card to an underage person or who knowingly provides other documentation to any underage person purporting to show that the underage person has attained the legal drinking age may be subject to a forfeiture of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) upon conviction.

(2) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars ($100.00) or imprisoned not more than ten (10) days or both.

(b) Any underage person who does any of the following is subject to the penalties specified under Section 11-4-4(c) or (d):

(1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this Subsection.

(2) Makes, alters or duplicates an official identification card.

(3) Presents false information to an issuing officer in applying for an official identification card.

State Law Reference: Section 125.09(3), Wis. Stats.

SEC. 11-4-7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED.

(a) In this Subsection:

(1) "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.

(2) "School" means a public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

(3) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

(4) "School premises" means premises owned, rented or under the control of a school.

(b) Except as provided by Subsection (c) no person may possess or consume alcohol beverages:

(1) On school premises;

(2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or

(3) While participating in a school-sponsored activity.

(c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.

(d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars ($200.00), except that Sec. 48.344, Wis. Stats., and Section 11-4-4(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

Cross Reference: Section 11-6-5.

SEC. 11-4-8 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION.

(a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.
(b) No adult may intentionally encourage or contribute to a violation of Section 11-4-4(a) or (b).
(c) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars ($200.00).

State Law Reference: Section 125.07(1)(a)3 and 4, Wis. Stats.

SEC. 11-4-9 SOLICITATION OF DRINKS PROHIBITED.

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the City who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Section 125.02(1) of the Wisconsin Statutes, or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer is deemed in violation of this Section.

CHAPTER 5

Offenses by Juveniles

11-5-1 Curfew
11-5-2 Possession of Controlled Substances by Juveniles
11-5-3 Petty Theft by Juveniles
11-5-4 Receiving Stolen Goods
11-5-5 City Jurisdiction Over Persons 14 through 17 Years of Age
11-5-6 Enforcement and Penalties

SEC. 11-5-1 CURFEW.

(a) No person under the age of sixteen (16) shall remain upon any street, alley, park or other public place in the City of Montreal between 11:00 p.m. and 6:00 a.m. the next day. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefor.

(b) **Exceptions.**

(1) This Section shall not apply to a child:

a. Who is, until the hour of 12:30 a.m., performing an errand as directed by his parent, guardian or person having lawful custody.

b. Who is, until the hour of 12:30 a.m., on his own premises or in the areas immediately adjacent thereto.

c. Who is accompanied by his or her parent, legal guardian or other responsible person who is over the age of eighteen (18) and approved by the individual's parent or legal guardian.

d. At any time in the event of an emergency which would justify the reasonableness of the individual's presence.

e. Who is pursuing the duties of his or her employment but the individual must be carrying a written statement from the employer attesting to the place and hours of employment.

f. Who is coming directly home from a meeting or a place of public entertainment, such as a movie, play, school, church or sporting event. This exception will apply for one-half (1/2) hour after the completion of such event, but in no case beyond 12:30 a.m.

(2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

(c) It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under sixteen (16) years of age to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the police department shall not be considered to have allowed or permitted any person under eighteen (18) years of age to violate this Section.

(d) The first time a minor, parent, guardian or person having legal custody of a minor is detained by a law enforcement officer serving the City, such minor, parent, guardian or person having such legal custody shall be advised, personally, if known or by registered mail, as to the provisions of this Section, and further advised that any violation of this Section occurring thereafter by this minor or any other minor under his or her care or custody shall result in a penalty being imposed as hereinafter provided.

(e) (1) Any parent, guardian or person having legal custody of a child described in Subsections (a) through (e) who has been warned in the manner provided in Subsection (f) and who thereafter violates any of the provisions of this Section shall be subject to a penalty as provided in Sec. 1-1-7 of this Code of Ordinances. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this Section because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats.

(2) Any minor person under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar ($1.00) nor more than Twenty-five Dollars ($25.00), together with the cost of prosecution.

SEC. 11-5-2 POSSESSION OF CONTROLLED SUBSTANCES BY JUVENILES.

It shall be unlawful for any person under the age of eighteen (18) to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 161, of the Wisconsin Statutes.

SEC. 11-5-3 PETTY THEFT BY JUVENILES.

It shall be unlawful for any person under the age of eighteen (18), with intent, to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

SEC. 11-5-4 RECEIVING STOLEN GOODS.

It shall be unlawful for a person under the age of eighteen (18) to intentionally receive or conceal property he knows to be stolen.

SEC. 11-5-5 CITY JURISDICTION OVER PERSONS 14 THROUGH 17 YEARS OF AGE.

(a) **Adoption of State Statute.** Section 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.

(b) **Provisions of Ordinance Applicable to Persons 14 through 17 Years of Age.** Subject to the provisions and limitations of Section 48.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against persons 14 through 17 years of age may be brought on behalf of the City of Montreal and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.

(g) **Water Pollution.** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(h) **Noxious Odors, Etc.** Any use of property, substances or things within the City or within four (4) miles thereof or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.

(i) **Street Pollution.** Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the City.

(j) **Animals at Large.** All animals running at large.

(k) **Accumulations of Refuse.** Accumulations of old cans, lumber, elm firewood and other refuse.

(l) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

SEC. 11-6-4 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 11-6-2:

(a) **Disorderly Houses.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(b) **Gambling Devices.** All gambling devices and slot machines, except as permitted by state law.

(c) **Unlicensed Sale of Liquor and Beer.** All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for the ordinances of the City.

(d) **Continuous Violation of City Ordinances.** Any place or premises within the City where City Ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(e) **Illegal Drinking.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the City.

SEC. 11-6-5 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 11-6-2:

(a) **Signs, Billboards, Etc.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(b) **Illegal Buildings.** All buildings erected, repaired or altered in violation of the provisions of the Ordinances of the City relating to materials and manner of construction of buildings and structures within the City.

(c) **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.

(d) **Obstruction of Intersections.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(e) **Tree Limbs.** All limbs of trees which project over a public sidewalk less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.

(f) **Dangerous Trees.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(g) **Fireworks.** All use or display of fireworks except as provided by the laws of the State of Wisconsin and Ordinances of the City.

(h) **Dilapidated Buildings.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(i) **Wires Over Streets.** All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.

(j) **Noisy Animals or Fowl.** The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the City.

(k) **Obstructions of Streets: Excavations.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the Ordinances of the City or which, although made in accordance with such Ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.

(l) **Open Excavations.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.

(m) **Abandoned Refrigerators.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(n) **Flammable Liquids.** Repeated or continuous violations of the Ordinances of the City or laws of the State relating to the storage of flammable liquids.

(o) **Unremoved Snow.** All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

SEC. 11-6-6 ABATEMENT OF PUBLIC NUISANCES.

(a) **Enforcement.** The Building Inspector, the Chief of the Fire Department and the Common Council shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this Section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the

nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(b) **Summary Abatement.** If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor, upon the recommendation of the appropriate department head, may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(c) **Abatement After Notice.** If the inspecting officer shall determine that public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisance to be removed as provided in Subsection (b).

(d) **Other Methods Not Excluded.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State of Wisconsin.

SEC. 11-6-7 COST OF ABATEMENT.

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, such cost shall be assessed against the real estate as a special charge.

TITLE 12

Parks and Recreation

Chapter 1 Parks and Navigable Waters

CHAPTER 1

Parks and Navigable Waters

12-1-1 Park Regulations
12-1-2 Operation of Remote or Radio-Controlled Toys or Devices Prohibited
12-1-3 Turf Protection on Public Property
12-1-4 Park Hours

SEC. 12-1-1 PARK REGULATIONS.

(a) **Purpose and Definition.** In order to protect the parks, parkways, recreational facilities and conservancy areas within the City from injury, damage or desecration, these regulations are enacted. The term "park" as hereinafter used in this Chapter shall include all grounds, structures and watercourses which are or may be located within any area dedicated to the public use as a park, parkway, recreation facility or conservancy district in the City.

(b) **Specific Regulations.**

(1) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any park.

(2) Sound Devices. No person shall operate or play any amplifying system unless specific authority is first obtained from the Common Council.

(3) Bill Posting. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any park, except park regulations and other signs authorized by the Common Council.

(4) Throwing Stones and Missiles Prohibited. No person shall throw stones or other missiles in or into any park.

(5) Removal of Park Equipment Prohibited. No person shall remove benches, seats, tables or other park equipment from any park.

(6) Trapping. No person shall trap in any park unless specific written authority is first obtained from the Common Council.

(7) Making of Fires. No person shall start, tend or maintain a fire except in personal grills or designated fireplaces. Personal grills shall be used only in designated picnic areas. The use of personal grills is permitted provided lawns and vegetation are not endangered. Unburned fuel and ashes shall be disposed of in such a manner as to prevent fire or damage to any park property.

(8) Protection of Park Property. No person shall kill, injure or disturb or attempt to injure or disturb waterfowl, birds or animals, wild or domestic, within any park, except as permitted by this Chapter. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, cut

down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flower bed, turf, soil, sand, fountain, ornament, building, structure, apparatus, bench, table, official notice, sign or other property within any park.

(9) Motorized Vehicles. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. Motor vehicles are restricted to the roads and drives and parking areas. No motor vehicles of any nature may be used on the seeded areas except vehicles which have Common Council authorization for shows, rides or exhibits and then only for the purpose of loading and unloading.

(10) Snowmobiles. No person shall operate a snowmobile in a City park except in designated areas. Snowmobiles shall only be operated on designated trails.

(11) Speed Limit. No person shall operate any vehicle in a City park in excess of 15 m.p.h. unless otherwise posted.

(12) Glass Beverage Bottles in Parks Prohibited. No person shall bring into, carry onto or possess while in any public park glass bottles or glass containers, including those containing or normally used for containing soda water, fermented malt beverages or alcohol.

(13) Reckless Driving in Parks Prohibited. No person shall operate a motor vehicle in a reckless manner in any of the public parks of the City.

(14) Parking in Parks. No person shall park any motor vehicle in any park in the City except in a designated parking area.

(15) Horse and Carriages. No person shall ride a horse or drive a horse-driven vehicle in any park, except on roads or designated bridle paths, except when approval of the Common Council is first obtained.

(16) Removing Tree Protectors. No person shall remove any device for the protection of trees or shrubs.

(17) Golfing and Sporting Activities. No golfing or practicing golf in City parks or recreation areas shall be allowed except with the use of a whiffle ball. All sporting activities must be held in areas so designated for that purpose.

(18) Arrows. No person shall use or shoot any bow and arrow in any City park, except in authorized areas.

(19) Fees and Charges. The Common Council shall have the authority to establish such fees as deemed necessary for use of any park facility, shelter or land area. It shall be unlawful to use such areas without payment of such fee or charge when required.

(20) Firearms; Hunting. Possessing or discharging of any firearm or weapon of any kind is prohibited in all City parks.

(21) Fish Cleaning. Cleaning of fish in shelters, toilet facilities or picnic areas is prohibited in all City parks.

(22) Controlled Substances. Possessing, using or dispensing of a controlled substance in violation of the Uniform Controlled Substances Act is prohibited in all City parks.

(23) Camping. Overnight camping is not permitted in any City park.

Cross Reference: Section 11-4-1.

SEC. 12-1-2 OPERATION OF REMOTE OR RADIO-CONTROLLED TOYS OR DEVICES PROHIBITED.

It shall be unlawful for any person to fly, operate or make use of any remote or radio-controlled model airplane, helicopter, vehicle or any other such device in, over or upon any street, park or other public or private property except in areas specifically designated and posted for such purpose and with the consent of the property owner or lessee of the property.

SEC. 12-1-3 TURF PROTECTION ON PUBLIC PROPERTY.

Except as authorized by the Common Council, no person shall dig into the turf of any City-owned park or recreational property for any purposes whatsoever or remove any trees or flowers. Absent authorization by the Common Council, the use of metal detectors and digging for buried objects on City parks or recreational property, except beaches where no vegetation is present, is prohibited.

SEC. 12-1-4 PARK HOURS.

(a) **Park Hours.** Subject to certain exceptions listed below, all City parks shall be closed from 12:00 midnight to 7:00 a.m. the following day. Persons launching or transporting watercraft from park property may do so only within park hours.

(b) **Park Closing and Opening Dates.** The Mayor or Common Council will have full authority to open and close any park, beach, facility or area because of weather conditions, physical condition, construction or when, in the interest of public safety, it is deemed necessary.

TITLE 13

Land Use Regulations

Chapter 1 Zoning Code
Chapter 2 Shoreland-Wetland Zoning
Chapter 3 Floodplain Zoning
Chapter 4 Annexations
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CHAPTER 1

Zoning Code

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ARTICLE A

Introduction

SEC. 13-1-1 AUTHORITY.

This Chapter is adopted under the authority granted by Sections 62.23(7) and 87.30 of the Wisconsin Statutes and amendments thereto.

State Law Reference: Section 62.23(7), Wis. Stats.

SEC. 13-1-2 TITLE.

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

SEC. 13-1-3 GENERAL PURPOSE.

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

SEC. 13-1-4 INTENT AND PURPOSES IN VIEW.

The general intent and purposes in view of this Chapter are to regulate and restrict the use of all structures, lands and waters and to:

(a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people;
(b) Divide the City into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
(c) Protect the character and the stability of the residential, business, manufacturing and other districts within the City and to promote the orderly and beneficial development thereof;
(d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
(e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
(f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
(g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;
(h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the City;
(i) Preserve and protect the beauty of the City of Montreal;
(j) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;

(k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
(l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
(m) Further the maintenance of safe and healthful water conditions;
(n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
(o) Provide for and protect a variety of suitable commercial and industrial sites;
(p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
(q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the City of Montreal;
(r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

SEC. 13-1-5 ABROGATION AND GREATER RESTRICTIONS.

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

SEC. 13-1-6 INTERPRETATION.

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

SEC. 13-1-7 SEVERABILITY AND NON-LIABILITY.

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

SEC. 13-1-8 REPEAL AND EFFECTIVE DATE.

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

SEC. 13-1-9 RESERVED FOR FUTURE USE.

ARTICLE B

General Provisions

SEC. 13-1-10 JURISDICTION AND GENERAL PROVISIONS.

(a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the City of Montreal.

(b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.

(c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.

(d) **Yard Reduction or Joint Use.**

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

(2) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this Code shall be included as a part of a yard or other open space required for another building.

(e) **One Main Building per Lot.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one (1) main building on one (1) lot.

(f) **Lots Abutting More Restrictive District.** Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two (2) districts which abut the district boundary line.

SEC. 13-1-11 USE REGULATIONS.

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

(a) **Permitted Uses.** Permitted uses, being the principal uses, specified for a district.

(b) **Accessory Uses.** Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.

(c) **Conditional Uses.**

(1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Common Council in accordance with Article E of this Chapter excepting those existent at time of adoption of the Zoning Code.

(2) Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of adoption of this Code require no action by the Common Council for them to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.

(3) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Common Council in accordance with Article E of this Chapter.
(4) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Common Council in accordance with Article E of this Chapter.
(5) Limited conditional uses authorized by Common Council resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.

(d) **Uses Not Specified in Code.**
(1) Uses not specified in this Chapter which are found by the Common Council to be sufficiently similar to specified permitted uses for a district shall be allowed by Zoning Administrator.
(2) Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Common Council after consideration and recommendation by the Common Council, public hearing and approval in accordance with Article E of this Chapter.

SEC. 13-1-12 SITE REGULATIONS.

(a) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of twenty-five (25) feet; however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.
(b) **Principal Structures.** All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot. The Common Council may permit as a conditional use more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Common Council may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
(c) **Dedicated Street.** No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
(d) **Lots Abutting More Restrictive Districts.** Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than sixty (60) feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
(e) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Common Council by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Common Council, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence

contesting such unsuitability if he so desires. Thereafter, the Common Council may affirm, modify or withdraw its determination of unsuitability.

(f) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Common Council, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.

(g) **Decks.** For purposes of this Chapter, decks and porches shall be considered a part of a building or structure.

SEC. 13-1-13 HEIGHTS AND AREA EXCEPTIONS.

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

(a) Churches, schools, hospitals, sanitoriums and other public and quasi-public buildings may be erected to a height not exceeding sixty (60) feet nor five (5) stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

(b) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials; microwave radio relay structures; telephone, telegraph and power poles and lines and necessary mechanical appurtenances are hereby excepted from the height regulations of this Code and may be erected in accordance with other regulations or codes of the City.

(c) Residences in the residence district may be increased in height by not more than ten (10) feet when all yards and other required open spaces are increased by one (1) foot for each foot when such building exceeds the height limit of the district in which it is located.

(d) Where a lot abuts on two (2) or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of one hundred twenty (120) feet from the line of the higher average established grade.

(e) Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.

(f) Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this Code, such lot may be occupied by one (1) family.

(g) Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than twelve (12) inches.

(h) Open or enclosed fire escapes and fire towers may project into a required yard not more than five (5) feet and into a required court not more than three and one-half (3-1/2) feet, provided it be so located as not to obstruct light and ventilation.

SEC. 13-1-14 REDUCTION OR JOINT USE.

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

SEC. 13-1-15 THROUGH SEC. 13-1-19 RESERVED FOR FUTURE USE.

ARTICLE C

Zoning Districts

SEC. 13-1-20 ESTABLISHMENT OF DISTRICTS.

(a) **Districts.** For the purpose of this Chapter, present and future, provision is hereby made for the division of the City of Montreal into the following sixteen (16) basic zoning districts:
(1) R-1 Single-Family Residential District.
(2) R-2 Single-Family Residential District.
(3) R-3 Multi-Family Residential District.
(4) B-1 Neighborhood Business District.
(5) B-2 Community Business District.
(6) B-3 Integrated Business District.
(7) B-4 Highway Business District.
(8) M-1 Industrial District.
(9) M-2Heavy Industrial District.
(10) M-3Quarrying District.
(11) A-1 Agricultural District.
(12) C-1 Conservancy District.
(13) F-1 Floodway District.
(14) F-2 Floodplain District.
(15) P-1 Public and Semipublic District.
(16) R-MH Mobile Home District.

SEC. 13-1-21 VACATION OF STREETS; ANNEXATIONS.

(a) **Vacation of Streets.** Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
(b) **Annexations.** Annexations to or consolidations with the City subsequent to the effective date of this Chapter shall be placed in the A-1 Agricultural District, unless the annexation ordinance places the land in another district.

SEC. 13-1-22 ZONING MAP.

(a) The City of Montreal is hereby divided into Zoning Districts as shown upon a map designated as the Official Zoning Map of the City of Montreal, adopted September 13, 1982, and made a part of this Chapter. The Official Zoning Map and all the notations, references and other information shown thereon are a part of this Chapter and shall have the same force and effect as if the matters and information set forth by said map were fully described herein. The Official Zoning Map shall be properly attested and kept on file along with the text of the Official Zoning Regulations in the office of the City Clerk-Treasurer of the City of Montreal.
(b) The District Boundaries shall be determined by measurement from and as shown on the Official Zoning Map, and in case of any question as to the interpretation of such boundary lines, the Common Council shall interpret the map according to the reasonable intent of this Chapter. Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section,

quarter section or sixteenth section lines; or the centerlines of streets, highways, railways or alleys.

SEC. 13-1-23 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
(c) Boundaries indicated as approximately following City boundaries shall be construed as following municipal boundaries.
(d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
(e) Boundaries indicated as following shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
(f) Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

SEC. 13-1-24 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

(a) **Principal Use.** One (1) family dwellings.
(b) **Conditional Uses.** See Section 13-1-72.
(c) **Lot.**
  (1) Width. Minimum one hundred (100) feet.
  (2) Area. Minimum ten thousand (10,000) square feet.
(d) **Building.**
  (1) Area. Minimum one thousand (1,000) square feet.
  (2) Height. Maximum thirty-five (35) feet.
(e) **Yards.**
  (1) Street. Minimum fifty (50) feet.
  (2) Rear. Minimum fifty (50) feet.
  (3) Side. Minimum twenty (20) feet.

SEC. 13-1-25 R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT.

(a) **Principal Use.** One (1) family dwellings.
(b) **Conditional Uses.** See Sections 13-1-72 and 13-1-73.
(c) **Lot.**
  (1) Width. Minimum seventy (70) feet.
  (2) Area. Minimum ten thousand (10,000) square feet.
(d) **Building.**
  (1) Area. Minimum one thousand (1,000) square feet.
  (2) Height. Maximum thirty-five (35) feet.
(e) **Yards.**
  (1) Street. Minimum twenty-five (25) feet.

(2) Rear. Minimum forty (40) feet.
(3) Side. Minimum ten (10) feet.

SEC. 13-1-16 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT.

(a) **Principal Use.** Multi-family dwellings.
(b) **Conditional Uses.** See Section 13-1-72 and 13-1-73.
(c) **Lot.**
(1) Width. Minimum one hundred twenty (120) feet.
(2) Area. Minimum fifteen thousand (15,000) square feet with no less than two thousand (2,000) square feet per efficiency; two thousand five hundred (2,500) square feet per one (1) bedroom unit; three thousand (3,000) square feet per two (2) bedroom unit.
(d) **Building.**
(1) Area. Minimum five hundred (500) square feet per family.
(2) Height. Maximum thirty-five (35) feet.
(e) **Yards.**
(1) Street. Minimum thirty-five (35) feet.
(2) Rear. Minimum fifty (50) feet.
(3) Side. Minimum twenty (20) feet.

SEC. 13-1-27 B-1 NEIGHBORHOOD BUSINESS DISTRICT.

(a) **Principal Uses.** The following uses provided that they shall be retail establishments selling and storing only new merchandise: bakeries, barber shops, bars, beauty shops, business offices, clinics, clothing stores, clubs, cocktail lounges, confectioneries, delicatessens, drug stores, fish markets, florists, fraternities, fruit stores, gift stores, grocery stores, hardware stores, house occupations, hobby shops, lodges, meat markets, optical stores, packaged beverage stores, professional offices, restaurants, self-service and pick-up laundry and dry cleaning establishments, soda fountains, sporting goods, supermarkets, tobacco stores and vegetable stores. Existing residences shall comply with all the provisions of the R-1 Residential District.
(b) **Conditional Uses.** See Sections 13-1-72 and 13-1-74.
(c) **Building Height.** Maximum thirty-five (35) feet.
(d) **Yards.**
(1) Street. Minimum twenty-five (25) feet.
(2) Rear. Minimum fifty (50) feet.
(3) Side. None or, if provided, a minimum of ten (10) feet.

SEC. 13-1-28 B-2 COMMUNITY BUSINESS DISTRICT.

(a) **Principal Uses.** All uses permitted in the B-1 Neighborhood Business District and the following: apartment hotels, appliance stores, caterers, churches, clothing repair shops, crockery stores, department stores, electrical supply, financial institutions, food lockers, furniture stores, furniture upholstery shops, heating supply, hotels, laundry and dry cleaning establishments employing not over seven (7) persons, liquor stores, music stores, newspaper offices and press rooms, night clubs, office supplies, pawn shops, personal service establishments, pet shops, places of entertainment, photographic supplies, plumbing supplies, printing, private clubs, private schools, publishing, radio broadcasting studios, secondhand

stores, signs, television broadcasting studios, trade and contractors' offices, upholsterers' shops and variety stores. Existing residences shall comply with all the provisions of the R-3 Residential District.

(b) **Conditional Uses.** See Sections 13-1-72, 13-1-74 and 13-1-77.

(c) **Building Height.** Maximum forty-five (45) feet.

(d) **Yards.**
- (1) Street. Minimum ten (10) feet.
- (2) Rear. Minimum thirty (30) feet.
- (3) Side. None or, if provided, a minimum of ten (10) feet.

SEC. 13-1-29 B-3 INTEGRATED BUSINESS DISTRICT.

(a) **Principal Uses.** None.

(b) **Conditional Uses.** All B-2 Community Business District uses. See Sections 13-1-72, 13-1-74 and 13-1-77.

(c) **Lot.**
- (1) Frontage. Minimum two hundred (200) feet.
- (2) Area. Minimum two (2) acres.

(d) **Building Height.** Maximum forty-five (45) feet.

(e) **Yards.**
- (1) Street. Minimum eighty (80) feet.
- (2) Rear. Minimum forty (40) feet.
- (3) Side. None or, if provided, a minimum of ten (10) feet.

SEC. 13-1-20 B-4 HIGHWAY BUSINESS DISTRICT.

(a) **Principal Uses.** None.

(b) **Conditional Uses.** Restaurants, gift stores, places of entertainment, confectioneries and drug stores. See Sections 13-1-72, 13-1-74 and 13-1-77.

(c) **Lot.**
- (1) Frontage. Minimum four hundred (400) feet.
- (2) Area. Minimum four (4) acres.

(d) **Building Height.** Maximum thirty-five (35) feet.

(e) **Yards.**
- (1) Street. Minimum one hundred (100) feet.
- (2) Rear. Minimum forty (40) feet.
- (3) Side. Minimum forty (40) feet.

SEC. 13-1-31 M-1 INDUSTRIAL DISTRICT.

(a) **Principal Uses.** Automotive body repairs; automotive upholstery cleaning, pressing and dyeing establishments; commercial bakeries; commercial greenhouses; distributors; farm machinery; food locker plants; laboratories; machine shops; manufacture and bottling of nonalcoholic beverages; painting; printing; publishing; storage and sale of machinery and equipment; trade and contractors' offices; warehousing; and wholesaling. Manufacture, fabrication, packing, packaging and assembly of products from furs, glass, leather, metals, paper, plaster, plastics, textiles and wood. Manufacture, fabrication, processing, packaging and packing of confections, cosmetics, electrical appliances; electronic devices; food, except cabbage, fish and fish products, meat and meat products, and pea vining;

instruments; jewelry; pharmaceutical; tobacco and toiletries. Existing residences shall comply with all the provisions of the R-3 Residential District.

(b) **Conditional Uses.** See Sections 13-1-72 and 13-1-75.

(c) **Building Height.** Maximum forty-five (45) feet.

(d) **Yards.**
   (1) Street. Minimum twenty-five (25) feet.
   (2) Rear. Minimum thirty (30) feet.
   (3) Side. Minimum twenty (20) feet.

SEC. 13-1-32 M-2 HEAVY INDUSTRIAL DISTRICT.

(a) **Principal Uses.** All M-1 Industrial District principal uses, freight yards, freight terminals and transhipment depots, inside storage, breweries and crematories. Existing residences shall comply with all the provisions of the R-3 Residential District.

(b) **Conditional Uses.** See Sections 13-1-72 and 13-1-75.

(c) **Building Height.** Maximum sixty (60) feet.

(d) **Yards.**
   (1) Street. Minimum ten (10) feet.
   (2) Rear. Minimum thirty (30) feet.
   (3) Side. Minimum ten (10) feet.

SEC. 13-1-33 M-3 QUARRYING DISTRICT.

(a) **Principal Uses.** Mineral extraction operations and concrete products manufacturing that are presently in existence.

(b) **Conditional Uses.** Extension of legally existing mineral extraction operations and manufacture of concrete and concrete products or the creation of such new extraction or manufacturing operations; utilities. See Section 13-1-76.

(c) **Yards.** Minimum two hundred (200) feet from any right-of-way or property line. Minimum one hundred (100) feet for accessory uses such as offices, parking areas and stock piles.

(d) **Structure Height.** Maximum forty-five (45) feet.

SEC. 13-1-34 A-1 AGRICULTURAL DISTRICT.

(a) **Principal Uses.** Agriculture, dairying, floriculture, forestry, general farming, grazing, greenhouses, hatcheries, horticulture, livestock raising, nurseries, orchards, paddocks, pasturage, poultry raising, stables, truck farming and viticulture. Farm dwellings for those resident owners and laborers actually engaged in the principal permitted uses are accessory uses and shall comply with all the provisions of the R-2 Residential District.

(b) **Conditional Uses.** See Sections 13-1-72 and 13-1-75.

(c) **Farm.**
   (1) Frontage. Minimum two hundred (200) feet.
   (2) Area. Minimum ten (10) acres.

(d) **Structure Height.** Maximum fifty (50) feet.

(e) **Yards.**
   (1) Street. Minimum eighty (80) feet.
   (2) Rear. Minimum fifty (50) feet.
   (3) Side. Minimum fifty (50) feet.

SEC. 13-1-35 C-1 CONSERVANCY DISTRICT.

(a) **Principal Uses.** Fishing; hunting; preservation of scenic, historic and scientific areas; public fish hatcheries; soil and water conservation; sustained-yield forestry; stream bank and lake shore protection; water retention; and wildlife preserves.
(b) **Conditional Uses.** Drainage; water measurement and water control facilities; grazing; accessory structures, such as hunting or fishing lodges; orchards; truck farming; utilities; and wildcrop harvesting. The above uses shall not involve the dumping, filling, cultivation, mineral, soil or peat removal or any other use that would disturb the natural fauna, flora, watercourse, water regimen or topography.
(c) **Structures.** None permitted, except accessory to the principal or conditional uses.

SEC. 13-1-36 F-1 FLOODWAY DISTRICT.

(a) **Principal Uses.** Drainage, movement of flood water, navigation, stream bank protection, water measurement and water control facilities.
(b) **Conditional Uses.** Grazing; horticulture; open parking and loading areas; open markets; open recreational uses such as parks, sport fields, beaches, bathing, hunting, fishing, camping, playgrounds, skating rinks, golf courses and driving ranges; outdoor plant nurseries; pasturage; parks; sod farming; transient amusement uses such as circuses and carnivals; truck farming; utilities; viticulture; wildcrop harvesting; and wildlife preserves. The above uses shall not involve the dumping, filling or any other use that would obstruct the floodway, retard drainage or retard the movement of flood waters.
(c) **Structures.** None permitted, except navigation and water measurement and water control facilities.

SEC. 13-1-37 F-2 FLOODPLAIN DISTRICT.

(a) **Principal Uses.** Flood overflows, impoundments, parks, sustained-yield forestry, fish hatcheries, wildlife preserves, water measurement and water control facilities.
(b) **Conditional Uses.** All uses permitted in the A-1 Agricultural District, except residential uses; all uses permitted in the P-1 Public and Semipublic District, except the caging of animals; warehousing; storage, parking and loading. The above uses shall not include the storage of materials that are buoyant, flammable, explosive or injurious to human, animal or plant life nor substantially reduce the flood water storage capacity of the floodplain. See Section 13-1-72.
(c) **Buildings.** All buildings shall have their first floors constructed at an elevation no less than two (2) feet above the level of the twenty-five (25), fifty (50), one hundred (100) year recurrence interval flood; (the greatest flood of record); (or the standard project flood).

SEC. 13-1-38 P-1 PUBLIC AND SEMIPUBLIC DISTRICT.

(a) **Principal Uses.** Parks, arboretums, playgrounds, fishing, wading, swimming, beaches, skating, sledding, sustained-yield forestry, wildlife preserves, soil and water conservation, water measurement and water control facilities.
(b) **Conditional Uses.** All structures; see Sections 13-1-72 and 13-1-77.

SEC. 13-1-39 R-MH MOBILE HOME DISTRICT.

The requirements for property in the R-MH Mobile Home District shall be as provided in Article L of this Chapter.

SEC. 13-1-40 THROUGH SEC. 13-1-49 RESERVED FOR FUTURE USE.

ARTICLE D

Planned Unit Development (PUD) Conditional Use

SEC. 13-1-50 PLANNED UNIT DEVELOPMENT CONDITIONAL USE – INTENT.

(a) The planned unit development conditional use is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The planned unit development under this Chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while, at the same time, maintaining insofar as possible, the land use density and other standards or use requirements as set forth in the underlying basic zoning district.

(b) The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the City upon specific petition under Section 13-1-57 of this Chapter and after public hearing, with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Section of the Chapter have been met.

SEC. 13-1-51 TYPES OF PLANNED UNIT DEVELOPMENTS.

This Article contemplates that there may be a Residential, Commercial, Industrial Planned Unit Developments and Mixed Compatible Use Developments.

SEC. 13-1-52 GENERAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS.

A planned unit development shall be consistent in all respects to the expressed intent of this Article and to the spirit and intent of this Chapter; shall be in conformity with the adopted master plan (comprehensive land use and thoroughfare plan), neighborhood plan or any adopted component thereof; and shall not be contrary to the general welfare and economic prosperity of the community.

SEC. 13-1-53 PHYSICAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS.

(a) **Minimum Area Requirements.** Areas designated as planned unit developments shall contain the minimum of development area prescribed in Section 13-1-73(a).

(b) **Density Requirements (Lot Area, Width and Yard Requirements).** The district area, width and yard requirements of the basic use district may be modified; however, in no case shall the average density in a residential district exceed the

number of dwelling units that would have been permitted if the planned unit development regulations had not been utilized.

(c) **Single Parcel, Lot or Tract.** The planned unit development shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the County Register of Deeds.

SEC. 13-1-54 REQUIREMENTS AS TO PUBLIC SERVICES AND FACILITIES.

(a) The development site shall be provided with adequate drainage facilities for surface and storm waters.
(b) The site will be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the development.
(c) No undue constraint or burden shall be imposed on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm drainage, and maintenance of public areas by the developments.
(d) The streets and driveways on the site of the development shall be adequate to serve the residents of the development and, in the case of public dedicated streets, will meet the minimum standards of all applicable ordinances or administrative regulations of the City.
(e) Public water and sewer facilities shall be provided.

SEC. 13-1-55 SUBSEQUENT LAND DIVISION.

The division of any land or lands within a planned unit development for the purpose of change or conveyance of ownership may be accomplished pursuant to the land division/subdivision regulations of the City when such division is contemplated.

SEC. 13-1-56 PROCEDURAL REQUIREMENTS -- INTENT.

Sections 13-1-50 through 13-1-55 set forth the basic philosophy and intent in providing for Planned Unit Developments, the kinds thereof, the general requirements, physical requirements and requirements as to public services and facilities. The following sections are intended to set forth the procedures and considerations involved leading to possible approval of such developments.

SEC. 13-1-57 PROCEDURAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS.

(a) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a planned unit development, the owner or his agent making such petition shall meet with the Common Council or its staff to discuss the scope and proposed nature of the contemplated development.
(b) **Petition for Approval.** Following the pre-petition conference, the owner or his agent may file a petition with the City Clerk-Treasurer for approval of a planned unit development. Such petition shall be accompanied by a review fee of Twenty-five Dollars ($25.00), as well as incorporate the following information:
    (1) Informational Statement. A statement which sets forth the relationship of the proposed PUD to the City's adopted master (comprehensive land use and thoroughfare plan) plan, neighborhood plan, or any adopted component

thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:

a. Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
c. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
d. Any proposed departures from the standards of development as set forth in the City zoning regulations, land subdivision ordinance, other City regulations or administrative rules, or other universal guidelines.
e. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.

(2) A General Development Plan Including:

a. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
b. The location of public and private roads, driveways, sidewalks and parking facilities.
c. The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
d. The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
e. The type, size and location of all structures.
f. General landscape treatment.
g. The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
h. The existing and proposed location of all private utilities or other easements.
i. Existing topography on the site with contours at no greater than two (2) foot intervals.
j. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
k. If the development is to be staged, a staging plan.
l. A plan showing how the entire development can be further subdivided in the future.

(c) **Public Hearing.** The Common Council shall hold public hearing on the petition in the manner provided in Sections 13-1-63 and 13-1-64 for Conditional Uses.

SEC. 13-1-58 BASIS FOR APPROVAL OF THE PETITION FOR PLANNED UNIT DEVELOPMENT.

(a) **Requirements.** The Common Council, in making a determination approving a petition for planned unit development, shall find as follows:

(1) That the general requirements made and provided in Section 13-1-52 will be met;
(2) That the applicable physical requirements made and provided in Section 13-1-53 will be met;

(3) That the requirements as to public services and facilities made and provided in Section 13-1-54 will be met.

(b) **Proposed Construction Schedule.** The Common Council, in making their respective recommendation and determination, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PUD, commencement of the physical development within one (1) year of approval being deemed reasonable.

(c) **Residential PUD, Considerations.** The Common Council, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:

(1) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.

(2) The total net residential density within the planned unit development will be compatible with the City master plan (comprehensive land use and thoroughfare plan), neighborhood plan, or components thereof, and shall be compatible with the density of the district wherein located.

(3) Structure types will be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows:

a. Planned residential developments in the R-1 or R-2 Districts shall not exceed four (4) dwelling units per structure.

b. Planned residential developments in the R-3 District shall not exceed sixteen (16) dwelling units per structure.

(4) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.

(5) Provision has been made for adequate, continuing fire and police protection.

(6) The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.

(7) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.

(d) **Commercial PUD, Considerations.** The Common Council, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:

(1) The economic practicality of the proposed development can be justified.

(2) The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.

(3) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

(4) The locations of entrances and exists have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.

(5) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.

(e) **Industrial PUD, Considerations.** The Common Council, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:
(1) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
(2) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water sanitary sewer and storm water drainage and maintenance of public areas.
(3) The proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
(4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

(f) **Mixed Use PUD, Considerations.** The Common Council, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:
(1) The proposed mixture of uses procedures a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.
(2) The various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use and character.
(3) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

SEC. 13-1-59 DETERMINATION OF DISPOSITION OF THE PETITION.

(a) **General.** The Common Council, following public hearing thereon and after due consideration, shall either deny the petition, approve the petition as submitted or approve the petition subject to any additional conditions and restrictions the Common Council may impose.

(b) **Approval.** The general and detailed approvals of a planned unit development shall be based on and include, as conditions thereto, the building, site and operational plans for the development as approved by the Common Council.
(1) General Approval. The general development plan submitted with the PUD application need not necessarily be completely detailed at the time of petition provided it is in sufficient detail to satisfy the Common Council as to the general character, scope and appearance of the proposed development. Such plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings and building sites. The approval of such general development plan, by way of approval of the petition, shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.
(2) Detailed Approval. Detail plans must be furnished to the Common Council for its consideration and the detailed approval by the Common Council of any part or stage of the proposed development shall be required before construction of such part or stage of the development may be commenced. Before plans submitted for detailed approval within the corporate limits will

be approved, the petitioner shall give satisfactory proof that he has contracted to install all improvements or file a performance bond insuring that such improvements will be installed within the time required by the Common Council.

(c) **Changes and Additions.** Any subsequent substantial change or addition to the plans or uses shall be submitted for approval to the Common Council and if, in the opinion of the Common Council, such change or addition constitutes a substantial alteration of the original plan, it shall schedule an additional public hearing in which event the Common Council shall schedule a notice of public hearing as for the original petition. Following such public hearing, the Common Council shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.

ARTICLE E

Conditional Uses

SEC. 13-1-60 STATEMENT OF PURPOSE -- CONDITIONAL USES.

The development and execution of this Article is based upon the division of the City into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

SEC. 13-1-61 AUTHORITY OF THE COMMON COUNCIL; REQUIREMENTS.

(a) The Common Council may, by resolution, authorize the Zoning Administrator to issue a conditional use permit for either regular or limited conditional use after review and public hearing, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of limited conditional use, the Common Council in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing limited rather than regular conditional use. Such Council resolution, and the resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Common Council shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.

(b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Common Council shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.

(c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Common Council upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.

(d) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

SEC. 13-1-62 INITIATION OF CONDITIONAL USE.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located.

SEC. 13-1-63 APPLICATION FOR CONDITIONAL USE.

An application for a conditional use shall be filed on a form prescribed by the City. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-66 hereinafter. The Common Council may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; highwater mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

SEC. 13-1-64 HEARING ON APPLICATION.

Upon receipt of the application and statement referred to in Section 13-1-63 above, the Common Council shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Common Council. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Common Council shall, by rule, prescribe from time to time.

SEC. 13-1-65 NOTICE OF HEARING ON APPLICATION.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wisconsin Statutes in the official City newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Common Council and the owners of record as listed in the office of the City Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing.

SEC. 13-1-66 STANDARDS – CONDITIONAL USES.

No application for a conditional use shall be granted by the Common Council unless such the Council shall find all of the following conditions are present:

(a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
(b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
(c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
(d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
(e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
(f) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
(g) That the proposed use does not violate flood plain regulations governing the site.
(h) That, when applying the above standards to any new construction of a building or an addition to an existing building, the Council shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
(i) That, in addition to passing upon a Conditional Use Permit, the Council shall also evaluate the effect of the proposed use upon:
    (1) The maintenance of safe and healthful conditions.
    (2) The prevention and control of water pollution including sedimentation.
    (3) Existing topographic and drainage features and vegetative cover on the site.
    (4) The location of the site with respect to floodplains and floodways of rivers and streams.
    (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
    (6) The location of the site with respect to existing or future access roads.
    (7) The need of the proposed use for a shoreland location.
    (8) Its compatibility with uses on adjacent land.
    (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

SEC. 13-1-67 DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT.

When a denial of a conditional use application is made, the Common Council shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Council has used in determining that each standard was not met.

SEC. 13-1-68 CONDITIONS AND GUARANTEES.

The following conditions shall apply to all conditional uses:
(a) **Conditions.** Prior to the granting of any conditional use, the Common Council may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements

specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the Council shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

(1) Landscaping;
(2) Type of construction;
(3) Construction commencement and completion dates;
(4) Sureties;
(5) Lighting;
(6) Fencing;
(7) Operational control;
(8) Hours of operation;
(9) Traffic circulation;
(10) Deed restrictions;
(11) Access restrictions;
(12) Setbacks and yards;
(13) Type of shore cover;
(14) Specified sewage disposal and water supply systems;
(15) Planting screens;
(16) Piers and docks;
(17) Increased parking; or
(18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.

(b) **Site Review.** The Common Council shall evaluate each application and may request assistance from any source which can provide technical assistance. The Council shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.

(c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Common Council.

(d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Common Council may require the use of certain general types of exterior construction materials and/or architectural treatment.

(e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

(f) **Conditional Uses to Comply with Other Requirements.** Conditional uses shall comply with all other provisions of this Chapter such as lot width and area, yards, height, parking and loading.

SEC. 13-1-69 VALIDITY OF CONDITIONAL USE PERMIT.

Where the Common Council has approved or conditionally approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the Council's action unless the use is commenced, construction is

underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Council may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Common Council at least thirty (30) days before the expiration of said permit.

SEC. 13-1-70 COMPLAINTS REGARDING CONDITIONAL USES.

The Common Council shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Common Council shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Common Council may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Common Council, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Common Council may revoke the subject conditional approval and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Common Council shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

SEC. 13-1-71 BED AND BREAKFAST ESTABLISHMENTS.

(a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residence Districts pursuant to this Article.

(b) **Definition.** "Bed and Breakfast Establishment" means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

(c) **State Standards.** Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wis. Adm. Code.

SEC. 13-1-72 PUBLIC AND SEMIPUBLIC CONDITIONAL USES.

The following public and semipublic uses shall be conditional uses and may be permitted as specified:

(a) Airports, airstrips and landing fields in the M-1 and M-2 Industrial Districts, A-1 Agricultural District, F-2 Floodplain District and P-1 Public and Semipublic District, provided the site area is not less than twenty (20) acres.

(b) Government and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums in all residential and business districts; M-1 and M-2 Industrial Districts, and P-1 Public and Semipublic District.

(c) Utilities in all districts provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.

(d) Public passenger transportation terminals, such as heliports, bus and rail depots, except airports, airstrips and landing fields, in all Business Districts and the M-1 and M-2 Industrial Districts, provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.

(e) Public, parochial and private elementary and secondary schools and churches in the R-2 and R-3 Residential Districts and P-1 Public and Semipublic District, provided the lot area is not less than two (2) acres and all principal structures and uses are not less than fifty (50) feet from any lot line.

(f) Colleges; universities; hospitals; sanitariums; religious, charitable, penal and correctional institutions; cemeteries and crematories in the A-1 Agricultural District and P-1 District and Semipublic District, provided all principal structures and uses are not less than fifty (50) feet from any lot line.

SEC. 13-1-73 RESIDENTIAL CONDITIONAL USES.

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

(a) Planned residential developments, such as cluster developments in the R-2 Residential District, and garden apartments, row housing and group housing in the R-3 Residential District. The district regulations may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. The proper preservations, care and maintenance by the original and all subsequent owners of the exterior design; all common structures, facilities, utilities, access and open spaces shall be assured by deed restrictions enforceable by the City. The following shall be complied with:

(1) Development. Minimum ten (10) acres.

(2) Lot.

a. Area. Minimum of two-thirds (2/3) of the minimum lot area for the district in which located. Minimum three thousand (3,000) square feet for row houses.

b. Width. Minimum of two-thirds (2/3) of the minimum lot width for the district in which located. Minimum twenty (20) feet for row houses.

(3) Building.

a. Area. Minimum building area for the district in which located.

b. Height. Maximum thirty-five (35) feet.

c. Rooms. All living rooms shall have windows opening onto a yard.

(4) Yards.

a. Street. Minimum twenty (20) feet.

b. Rear. Minimum fifty (50) feet.

c. Side. Minimum twenty (20) feet from street rights-of-way, exterior property lines of the development, and other buildings.

(b) Clubs, fraternities, lodges and meeting places of a noncommercial nature in the R-3 Residential District, provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.

(c) Rest homes, nursing homes, homes for the aged, clinics and children's nurseries in the R-2 or R-3 Residential Districts, provided all principal structures and uses are not less than fifty (50) feet from any lot line.

(d) Home occupations and professional offices in the R-2 or R-3 Residential Districts.

(e) Two-family dwellings (duplexes), provided that each family unit shall meet the minimum requirements for building and yard sizes as contained in Section 13-1-24, R-1 Single-Family Residential District.

SEC. 13-1-74 HIGHWAY-ORIENTED CONDITIONAL USES.

The following commercial uses shall be conditional uses and may be permitted as specified:

(a) Drive-in theaters in the B-4 Business District, provided that a planting screen at least twenty-five (25) feet wide is created along any side abutting a residential district and no access is permitted to or within one thousand (1,000) feet of an arterial street.

(b) Drive-in establishments serving food or beverages for consumption outside the structure in the B-4 Business District.

(c) Motels in the B-4 Business District.

(d) Funeral homes in the B-2, B-3 and B-4 Business Districts, provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.

(e) Drive-in banks in the B-2, B-3 and B-4 Business Districts.

(f) Tourist homes in the B-2 and B-4 Business Districts, provided such district is located on a state trunk or U.S. numbered highway.

(g) Vehicle sales, service, washing and repair stations, garages, taxi stands and public parking lots in all business districts, provided all gas pumps are not less than thirty (30) feet from any side or rear lot line and twenty (20) feet from any existing or proposed street line.

(h) Any development within five hundred (500) feet of the existing or proposed right-of-way of freeways, expressways, interstate and controlled access traffic-ways and within one thousand five hundred (1,500) feet of their existing or proposed interchange or turning lane rights-of-way shall be deemed to be conditional uses; and no structures shall be erected closer than one hundred (100) feet to their rights-of-way.

SEC. 13-1-75 INDUSTRIAL AND AGRICULTURAL CONDITIONAL USES.

The following industrial and agricultural uses shall be conditional uses and may be permitted as specified:

(a) Animal hospitals in the A-1 Agricultural, M-1 and M-2 Industrial Districts, provided the lot area is not less than three (3) acres, and all principal structures and uses are not less than one hundred (100) feet from any residential district.

(b) Dumps, disposal areas, incinerators and sewage disposal plants in the A-1 Agricultural and the M-1 and M-2 Industrial Districts. Municipal earth and sanitary landfill operations may be permitted in any district.

(c) Commercial raising, propagation, boarding or butchering of animals, such as dogs, mink, rabbits, foxes, goats and pigs; the commercial production of eggs; the hatching, raising, fattening or butchering of fowl in the A-1 Agricultural District. Pea vineries, creameries and condenseries in the A-1 Agricultural or M-1 and M-2 Industrial Districts.

(d) Manufacture and processing of abrasives, acetylene, acid, alkalies, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, felt, fish, fuel, furs, gelatin, glucose, gypsum, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oil cloth, paint, paper, peas, perfume, pickle, plaster of paris, plastics, poison, polish, potash, pulp, pyroxylin, radium, rope, rubber, sausage, shoddy, shoe and lampblacking, size, starch, stove polish, textiles and varnish. Manufacturing, processing and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast. Manufacture and bottling of alcoholic beverages. Bag cleaning, bleacheries, canneries, cold storage warehouses; electric and steam generating plants; electroplating; enameling; forges; foundries; garbage; incinerators; lacquering; lithographing; offal, rubbish or animal reduction; oil, coal and bone distillation; refineries; road test facilities; slaughterhouses; smelting; stockyards; tanneries; and weaving in the M-2 Heavy Industrial District and shall be at least six hundred (600) feet from residential and public and semipublic districts.

(e) Outside storage and manufacturing areas in the M-2 Heavy Industrial District, wrecking, junk, demolition and scrap yards shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least six hundred (600) feet from residential, public and semipublic districts.

(f) Commercial service facilities, such as restaurants and fueling stations in the M-1 and M-2 Industrial Districts, provided all such services are physically and sales-wise oriented toward industrial district users and employees and other users are only incidental customers.

SEC. 13-1-76 MINERAL EXTRACTION CONDITIONAL USE.

Mineral extraction operations, including washing, crushing or other processing are conditional uses and may be permitted in the M-3 Quarrying District provided:

(a) The application for the conditional use permit shall include an adequate description of the operation; a list of equipment, machinery and structures to be used; the source, quantity and disposition of water to be used; a topographic map of the site showing existing contours with minimum vertical contour interval of five (5) feet, trees, proposed and existing access roads, the depth of all existing and proposed excavations; and a restoration plan.

(b) The restoration plan provided by the applicant shall contain proposed contours after filling; depth of the restored topsoil; type of fill, planting or reforestation; reforestation commencement and completion dates. The applicant shall furnish the necessary fees to provide for the City's inspection and administrative costs and the necessary sureties which will enable the City to perform the planned restoration of the site in the event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the City Engineer, and the form and type of such sureties shall be approved by the City Attorney.

(c) The conditional use permit shall be in effect for a period not to exceed two (2) years and may be renewed upon application for a period not to exceed two (2) years. Modifications or additional conditions may be imposed upon application for renewal.

(d) The Common Council shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site.

SEC. 13-1-77 RECREATIONAL USES.

(a) The following public recreational facilities shall be conditional uses and may be permitted as specified: archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, hunting, ice boating, marinas, music halls, polo fields, pools, riding academies, skating rinks, sport fields, stadiums, swimming pools and zoological and botanical gardens in the P-1 Public and Semipublic District provided that the lot area is not less than three (3) acres and all structures are not less than fifty (50) feet from any district boundary.

(b) Commercial recreational facilities, such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, turkish baths, skating rinks and theaters are conditional uses and may be permitted in the B-2, B-3 or B-4 Business Districts.

SEC. 13-1-78 AND SEC. 13-1-79 RESERVED FOR FUTURE USE.

ARTICLE F

Nonconforming Uses, Structures and Lots

SEC. 13-1-80 EXISTING NONCONFORMING USES AND STRUCTURES.

(a) The lawful nonconforming use of a structure or land, including but not limited to fences, parking and zoning setbacks existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter. However, only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.

(b) If no structural alterations are made, a nonconforming use of a building may be changed to any use permitted in the same use district as that in which the use existing is permitted according to the provisions of this Chapter; provided when a use district is changed, any existing, nonconforming use in such changed district may be continued or changed to a use permitted in the same use district as that in which the existing use is permitted; provided all other regulations governing the new use are complied with.

(c) Substitution of new equipment may be permitted by the Board of Zoning Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

SEC. 13-1-81 ABOLISHMENT OR REPLACEMENT.

(a) **Termination.** If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this Chapter.

(b) **Building Destroyed by Fire.** Where a building located in a district restricted against its use has been destroyed by fire or other calamity to the extent of not more than fifty percent (50%) of its fair market value, the same may be rebuilt; but where such a building is destroyed to the extent of more than fifty percent (50%) of its fair market value, a permit may be granted for its reconstruction within twelve (12) months from the date of such fire or other calamity, except any public utility located in a restricted district shall be permitted to rebuild, alter or enlarge in any business or industrial district as the interest of the public demands.

SEC. 13-1-82 EXISTING NONCONFORMING STRUCTURES.

The lawful nonconforming structure existing at the time of the adoption or amendment of this Chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Chapter. However, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.

SEC. 13-1-83 CHANGES AND SUBSTITUTIONS.

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Board of Zoning appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Zoning Appeals.

SEC. 13-1-84 REDUCED BUILDING SETBACKS.

(a) A setback less than the setback required may be permitted by a variance where there are existing principal buildings within two hundred (200) feet of the proposed building site that are built to less than the required setback. In such cases, the setback shall be no less than the average of the setbacks of the nearest principal building on each site of the proposed site or, if there is no principal building within two hundred (200) feet on one (1) side, the average of the setback for the principal building on the one (1) side and the setback required in each zoning district. The average is not to include any building now within ten (10) feet of the right-of-way.

(b) Any modification of other setbacks, including water line setback, may only be permitted by the Board of Appeals.

SEC. 13-1-85 SUBSTANDARD LOTS.

(a) In any residential district, a one (1) family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record in the County Register of Deeds' office before the effective date or amendment of this Chapter.

(b) Such lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Chapter. If in separate ownership, all the district requirements shall be complied with insofar as practical but shall not be less than the following:

(1) Lot.
   a. Width. Minimum thirty (30) feet.
   b. Area. Minimum four thousand (4,000) square feet.

(2) Building.
   a. Area. Minimum one thousand (1,000) square feet.
   b. Height. Maximum thirty (30) feet.

(3) Yards.
   a. Street. Minimum twenty-five (25) feet; the second street yard on corner lots shall be not less than ten (10) feet.
   b. Rear. Minimum twenty-five (25) feet.
   c. Side. Minimum sixteen percent (16%) of the frontage, but not less than five (5) feet.

SEC. 13-1-86 THROUGH SEC. 13-1-89 RESERVED FOR FUTURE USE.

ARTICLE G

Traffic Visibility, Loading, Parking and Access

SEC. 13-1-90 TRAFFIC VISIBILITY.

(a) On a corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines twenty-five (25) feet from the point of intersection.

(b) In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

SEC. 13-1-91 LOADING REQUIREMENTS.

(a) **Loading Space Requirements.** On every lot on which a new business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:

Use	Floor Area (sq. ft.)	Loading Space
Retail, wholesale warehouse, service manufacturing, and industrial establishments	2,000 - 10,000	1
	10,000 - 20,000	2
	20,000 - 40,000	3
	40,000 - 60,000	4
	Each additional 50,000	1
Hotels, offices hospitals, places of public assembly	5,000 - 10,000	1
	10,000 - 50,000	2
	50,000 - 100,000	3
	Each additional 25,000	1
Funeral homes	2,500 - 4,000	1
	4,000 - 6,000	2
	Each additional 10,000	1

(b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

(c) **Location.** Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street.

(d) **Design Standards.** Each off-street loading space shall have a width of at least twelve (12) feet, a length of at least forty-five (45) feet, and a vertical clearance of at least fourteen (14) feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to ten (10) feet in width, twenty-five (25) feet in length, and eight (8) feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect neighboring residences.

(e) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than six (6) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.

(f) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any Residence District.

(g) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

SEC. 13-1-92 PARKING REQUIREMENTS.

All new parking lots and all alterations of existing lots shall be subject to the approval of the Common Council. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except those areas which are located within the fire zone as designated on the Official Map, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

(a) **Access.** Adequate access to a public street shall be provided for each parking space.

(b) **Design Standards.** Each required off-street parking space shall have a stall width of at least nine (9) feet and a stall length of at least eighteen (18) feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: Eleven (11) feet for thirty degree (30^{O}) parking; and twenty (20) feet for ninety degree (90^{O}) parking. Minimum width of aisles providing access to stalls for two-way traffic shall be twenty-four (24) feet. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than ten (10) spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.

(c) **Location.**

(1) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.

(2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts but shall not be closer than five (5) feet to a side lot line, right-of-way line or rear lot line.

(3) Off-street parking in the single-family resident and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line providing the driveway conforms to the requirements in Section 13-1-93.

(d) **Use Restrictions.**

(1) Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in Residence Districts.

(2) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) footcandles measured at the lot line.

(3) Street Setback Area. No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.

(e) **Number of Stalls.** Number of parking stalls required for newly created parking lots are shown in the following table:

Use	Minimum Parking Required
Dwellings: Single-family, two-family and mobile homes	2 stalls for each dwelling unit
Dwellings: Multi-family	1.5 stalls for each dwelling unit
Housing for the elderly	0.75 space for each dwelling with one-half of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Common Council may order them installed
Hotels, motels	1 stall for each guest room plus 1 stall for each 3 employees
Dormitories, rooming and boarding houses	1 stall for each 2 beds
Retirement homes, orphanages, convents and monasteries	1 stall per 2,000 feet of principal floor area
Hospitals, sanitariums, institutions, rest and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	3 stalls for each doctor
Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 stall for each 5 seats
Secondary and elementary schools	1 stall for each 2 employees plus 1 stall for each 5 students of 16 years of age or more

Restaurants, bars, clubs and lodges, places of entertainment	1 stall for each 150 square feet of floor area
Manufacturing and processing plants (including meat and food processing), laboratories and warehouses	1 stall for every 3 employees; number of employees shall be construed to mean the maximum number on the premises at one time
Financial institutions, business, government and professional offices, retail and service establishments	1 stall for each 300 square feet of floor area and 1 stall for each 2 employees
Motor vehicle sales (new and used)	1 space for each 500 square feet of floor area used plus one space for each 300 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages -- see above.)
Repair shops, retail and service stores	1 space for each 150 square feet of net floor space
Automobile repair garages and service stations	1 space for each employee plus 1 space for each 250 square feet of floor area used for repair work
Bowling alleys	5 spaces for each alley

(f) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.

(g) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.

(h) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

(i) **Off-Lot Parking.**

(1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the City Attorney.

(2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.

(d) **Design Standards.** Each off-street loading space shall have a width of at least twelve (12) feet, a length of at least forty-five (45) feet, and a vertical clearance of at least fourteen (14) feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to ten (10) feet in width, twenty-five (25) feet in length, and eight (8) feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect neighboring residences.

(e) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than six (6) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.

(f) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any Residence District.

(g) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

SEC. 13-1-92 PARKING REQUIREMENTS.

All new parking lots and all alterations of existing lots shall be subject to the approval of the Common Council. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except those areas which are located within the fire zone as designated on the Official Map, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

(a) **Access.** Adequate access to a public street shall be provided for each parking space.

(b) **Design Standards.** Each required off-street parking space shall have a stall width of at least nine (9) feet and a stall length of at least eighteen (18) feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: Eleven (11) feet for thirty degree (30^{O}) parking; and twenty (20) feet for ninety degree (90^{O}) parking. Minimum width of aisles providing access to stalls for two-way traffic shall be twenty-four (24) feet. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than ten (10) spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.

(c) **Location.**

(1) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.

(2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts but shall not be closer than five (5) feet to a side lot line, right-of-way line or rear lot line.

(3) Off-street parking in the single-family resident and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line providing the driveway conforms to the requirements in Section 13-1-93.

(d) **Use Restrictions.**

(1) Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in Residence Districts.

(2) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) footcandles measured at the lot line.

(3) Street Setback Area. No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.

(e) **Number of Stalls.** Number of parking stalls required for newly created parking lots are shown in the following table:

Use	Minimum Parking Required
Dwellings: Single-family, two-family and mobile homes	2 stalls for each dwelling unit
Dwellings: Multi-family	1.5 stalls for each dwelling unit
Housing for the elderly	0.75 space for each dwelling with one-half of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Common Council may order them installed
Hotels, motels	1 stall for each guest room plus 1 stall for each 3 employees
Dormitories, rooming and boarding houses	1 stall for each 2 beds
Retirement homes, orphanages, convents and monasteries	1 stall per 2,000 feet of principal floor area
Hospitals, sanitariums, institutions, rest and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	3 stalls for each doctor
Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 stall for each 5 seats
Secondary and elementary schools	1 stall for each 2 employees plus 1 stall for each 5 students of 16 years of age or more

Restaurants, bars, clubs and lodges, places of entertainment	1 stall for each 150 square feet of floor area
Manufacturing and processing plants (including meat and food processing), laboratories and warehouses	1 stall for every 3 employees; number of employees shall be construed to mean the maximum number on the premises at one time
Financial institutions, business, government and professional offices, retail and service establishments	1 stall for each 300 square feet of floor area and 1 stall for each 2 employees
Motor vehicle sales (new and used)	1 space for each 500 square feet of floor area used plus one space for each 300 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages -- see above.)
Repair shops, retail and service stores	1 space for each 150 square feet of net floor space
Automobile repair garages and service stations	1 space for each employee plus 1 space for each 250 square feet of floor area used for repair work
Bowling alleys	5 spaces for each alley

(f) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.

(g) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.

(h) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

(i) **Off-Lot Parking.**

(1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the City Attorney.

(2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.

(3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.
(4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

SEC. 13-1-93 DRIVEWAYS.

All driveways installed, altered, changed, replaced or extended after the effective date of this Chapter shall meet the following requirements and must be approved as to location by the Zoning Administrator:

(a) Island between driveway openings shall be provided with a minimum of six (6) feet between all driveways.
(b) The maximum number of driveway openings for vehicular ingress and egress permitted for lots with a width less than one hundred (100) feet shall be one (1) and for lots with a width greater than one hundred (100) feet shall be two (2).
(c) Vehicular entrances and exits to drive-in theaters, banks and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages or public parking lots shall be not less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park playground, library, public emergency shelter or other place of public assembly.
(d) Openings for vehicular ingress and egress shall not exceed thirty (30) feet at the property line and thirty-five (35) feet at the roadway for all uses except the maximum curb opening for all residential districts shall be twenty-five (25) feet at the roadway.
(e) Driveways shall be at least ten (10) feet wide for one- and two-family dwellings, at least eighteen (18) feet for farmsteads, and a maximum of thirty-five (35) feet at the roadway for all other uses except the maximum curb opening for all residential districts shall be twenty-five (25) feet.

SEC. 13-1-94 HIGHWAY ACCESS.

(a) **Highway Access.** No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance ramps). No driveway openings shall be permitted within one hundred (100) feet of the intersection of an arterial street right-of-way line.
(b) Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
(c) Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

SEC. 13-1-95 THROUGH 13-1-99 RESERVED FOR FUTURE USE.

ARTICLE H

Signs and Billboards

SEC. 13-1-100 PURPOSE OF SIGN AND BILLBOARD REGULATIONS.

The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs and billboards.

SEC. 13-1-101 SIGNS AND BILLBOARDS -- DEFINITIONS.

The following definitions are used in this Article:

(a) **Awning.** A temporary hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure.

(b) **Billboard.** A sign which advertises goods, products or facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.

(c) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.

(d) **Sign.** A sign shall include anything that promotes, calls attention or invites patronage (or anything similar to the aforementioned) to a business, location or product.

(e) **Directly Illuminated Sign.** Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

(f) **Directory Sign.** Shall mean any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories.

(g) **Electronic Message Unit Sign.** Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.

(h) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.

(i) **Ground and/or Pole Sign.** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building. (Also referred to as "Free Standing Sign.")

(j) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.

(k) **Indirectly Illuminated Sign.** Shall mean a sign that is illuminated from a source outside of the actual sign.

(l) **Marquee Sign.** Shall mean any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.

(m) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Article.
(n) **Portable Sign.** Any sign not permanently attached to the ground which is designed to be easily moved from one location to another.
(o) **Projecting Sign.** Any sign extending more than eighteen (18) inches, but less than five (5) feet from the face of a wall or building.
(p) **Real Estate Sign.** Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.
(q) **Roof Sign.** Any sign erected upon or over the roof or parapet of any building.
(r) **Temporary Sign.** Any sign intended to be displayed for a short period of time, including real estate, political or construction site signs, and banners, decorative-type displays or anything similar to the aforementioned.
(s) **Wall Sign.** Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than eighteen (18) inches from such wall.
(t) **Window Sign.** Any sign located completely within an enclosed building and visible from a public way.

SEC. 13-1-102 PERMITTED SIGNS.

(a) **Signs in Residential, Conservancy, Recreational and Agricultural Districts.** The following signs are permitted when located outside of the public right-of-way, except as otherwise provided in this Article:
  (1) Customary, professional and home occupation signs not exceeding fifteen (15) square feet, and "For Rent" or "For Sale" signs not exceeding eight (8) square feet in area.
  (2) One (1) on-premises announcement sign or bulletin board of an appropriate nature, identifying a hospital, school, church or other similar facility or institution not exceeding eight (8) square feet in area.
  (3) Temporary signs of not more than twenty (20) square feet in area for the purpose of advertising an auction, bazaar, festival, political or other special event. Signs shall be removed at the conclusion of the event.
  (4) Off-premises signs provided they are directional only, the outside dimensions of which do not exceed twenty (20) square feet, are located within a three (3) mile radius of the advertised business or activity and are not in conflict with Chapter HY 19, Wisconsin Administrative Code, or Chapters 196 and 84.30 of the Wisconsin Statutes.
  (5) Signs necessary to the public safety and welfare or for the identification, operation or protection of a public utility installation shall be no larger than three (3) square feet and may be located any distance outside of the public right-of-way.
  (6) In all agricultural districts, signs which advertise agricultural products that are produced on the property where the sign is located shall be permitted provided the following conditions are met:
    a. Signs shall not conflict with state or federal sign regulations. (Note: It shall be the responsibility of the person wishing to erect or paint the sign to obtain any and all other permits or approvals.)
    b. For signs larger than thirty-two (32) square feet, all conditions set forth in Subsection (b) shall be met.
    c. Signs shall be located on an operating farm and adjacent to the principal building or buildings used in the production of the agricultural product being advertised.

d. Signs shall contain only one (1) message per face, and more than one (1) double-face or two (2) single-face signs larger than thirty-two (32) square feet per face shall be permitted.
e. Signs which are thirty-two (32) square feet in area or less shall be permitted as farm identification signs. These signs shall include the farm name and/or surname of the farm operator. Farm identification signs shall be no less than fifteen (15) feet from the right-of-way line.
f. No sign other than a farm identification sign as defined in Subsection (5) above shall contain a brand name, trade name, organization, co-op, union or bureau name.

(b) **Signs in Commercial and Industrial Districts.** The following signs are permitted:
(1) Wall signs placed against the exterior walls of buildings shall not extend more than six (6) inches outside of a building's wall surface, shall not exceed five hundred (500) square feet in area for any one (1) premises and shall not exceed twenty (20) feet in height above the mean centerline street grade.
(2) Projecting signs fastened to, suspended from or supported by structures shall not exceed one hundred (100) square feet in area for any one (1) premises, shall not extend more than six (6) feet into any required yard, shall not extend more than three (3) feet into any public right-of-way, shall not be less than ten (10) feet from all side lot lines, shall not exceed a height of twenty (20) feet above the mean centerline street grade and shall not be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.
(3) Ground signs shall not exceed twenty (20) feet in height above the mean centerline grade, shall meet all yard requirements for the district in which it is located, shall not exceed one hundred (100) square feet on one (1) side nor two hundred (200) square feet on all sides for any one (1) premises.
(4) Roof signs shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which it is located and shall not exceed three hundred (300) square feet on all sides for any one (1) premises.
(5) Window signs shall be placed only on the inside of commercial buildings and shall not exceed twenty-five percent (25%) of the glass area of the pane upon which the sign is displayed.
(6) Combinations of any of the above signs shall meet all the requirements for the individual sign.

SEC. 13-1-103 EXCEPTIONS TO SIGN REGULATIONS.

The following signs and related items shall not be included in the application of the regulations contained in this Article:
(a) Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers or names of occupants of premises.
(b) Flags and insignia of any government, except when displayed in connection with commercial promotion.
(c) Legal notices, identification information or directional signs erected by governmental bodies.
(d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
(e) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

(f) Signs erected by National, State, County or Municipal Governmental Agencies, including traffic and informational signs.

SEC. 13-1-104 PROHIBITED SIGNS.

(a) No sign will be permitted that resembles the size, shape, form or color of official traffic control signs, signals or devices.
(b) No sign shall contain more than one hundred (100) square feet in gross area.
(c) No sign in a conspicuous state of disrepair shall be permitted to exist. The Common Council may order removal on a twenty (20) day public notice or immediately if public danger exists.
(d) No sign except those permitted in Section 13-1-102(a) shall be permitted to face a Residential or Public and Semipublic District within one hundred (100) feet of such district boundary.

SEC. 13-1-105 DANGEROUS AND ABANDONED SIGNS; VIOLATIONS.

(a) All signs shall be removed by the owner or lessee of the premises upon which the sign is located when a business which it advertises has not been conducted for a period of six (6) months or when, in the judgment of the Common Council, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Common Council may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the Common Council's decision to the Board of Appeals.
(b) **Alterations.** Any sign which was erected before the adoption of this sign Article shall not be rebuilt or relocated without conforming to all of the requirements of this Article.
(c) **Violations.** All signs constructed or maintained in violation of any of the provisions of this Article are hereby declared public nuisances within the meaning of this Code of Ordinances. In addition to the above penalty provisions for violation of this Chapter, the Common Council may bring an action to abate the nuisance in the manner set forth in the Wisconsin State Statutes.

SEC. 13-1-106 VARIANCES OR EXCEPTIONS.

Variances or exceptions to these sign regulations may be granted by the Board of Appeals and decisions by the Common Council may be appealed to the Board of Appeals.

SEC. 13-1-107 CONSTRUCTION AND MAINTENANCE REGULATION FOR SIGNS.

(a) **Installation.** All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Common Council.

(b) **Prohibitions.**
(1) No sign shall be erected so that any portion of the sign or its supports attached to or interfere with the free use of any fire escape, exit, any required stairway, door, ventilator or window.
(2) No sign shall be erected that will interfere with, obstruct, confuse or mislead traffic.
(3) At no time shall signs be permitted within a vision clearance triangle in such a manner as to restrict vision or impair safety.
(4) No sign located within one hundred fifty (150) feet of a highway or street right-of-way shall contain, include or be illuminated by a flashing or rotating beam of light.

(c) **Signs on Public Rights-of-Way.** Signs shall not be permitted on public rights-of-way except for traffic control, parking and directional signs and as otherwise specified in this Chapter.

SEC. 13-1-108 SPECIFIC REQUIREMENTS.

(a) **Temporary Sign Limitations.**
(1) All temporary signs such as real estate, construction site and political signs shall be removed within ten (10) days after their use has discontinued.
(2) Temporary signs may be placed on a property, but shall not be located on a right-of-way terrace, and shall not interfere with driveway vision clearance.

(b) **Portable Signs.**
(1) Such signs shall be limited in use to thirty (30) days at a time, and not more frequently than three (3) times per year at any one (1) location.
(2) The maximum size shall be twenty-five (25) square feet on each face, back-to-back.

(c) **Bonds.** Every applicant for a zoning and building permit for a sign shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Zoning and Building Inspector, but not to exceed Twenty-five Thousand Dollars ($25,000.00); and it shall be of a form and type approved by the City Attorney, indemnifying the municipality against all loss, cost, damages or expense incurred or sustained by or recovered against the City by reason of the erection, construction or maintenance of such sign. A liability insurance policy issued by an insurance company authorized to do business in the State of Wisconsin and conforming to the requirements of this Subsection may be permitted by the City Attorney in lieu of a bond.

SEC. 13-1-109 NONCONFORMING SIGNS.

(a) **Signs Eligible For Characterization as Legal Nonconforming.** Any sign located within the City of Montreal limits of the date of adoption of this Chapter or located in an area annexed to the City of Montreal hereafter which does not conform with the provisions of this Article is eligible for characterization as a legal nonconforming sign and is permitted.

(b) **Loss of Legal Nonconforming Status.** A sign loses its nonconforming status if one (1) or more of the following occurs:
(1) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this Article than it was before alteration;
(2) The sign is relocated;

(3) The sign fails to conform to the City requirements regarding maintenance and repair, abandonment or dangerous or defective signs;
(4) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Article or shall be removed.

(c) **Legal Nonconforming Sign Maintenance and Repair.** Nothing in this Article shall relieve the owner or use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Article regarding safety, maintenance and repair of signs.

SEC. 13-1-110 WIND PRESSURE AND DEAD LOAD REQUIREMENTS.

All billboards, signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed to receive dead loads as required in the Building Code or other Ordinances of the City of Montreal.

SEC. 13-1-111 ABANDONED BILLBOARDS AND SIGNS.

Except as otherwise herein provided, all billboards and/or sign messages shall be removed by the owner or lessee of the premises upon which an off-premise sign/ billboard is located when the business it advertised is no longer conducted where advertised. If the owner or lessee fails to remove the sign/billboard, the Common Council shall give the owner sixty (60) days' written notice to remove said sign/billboard and thereafter, upon the owner's or lessee's failure to comply, may remove such sign/billboard, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Common Council may take any other appropriate legal action necessary to attain compliance.

SEC. 13-1-112 THROUGH SEC. 13-1-119 RESERVED FOR FUTURE USE.

ARTICLE I

Performance Standards -- Industrial Developments

SEC. 13-1-120 ARTICLE INTENT.

It is the intent of this Article to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects.

SEC. 13-1-121 NOISE.

No operation or activity shall transmit any noise exceeding 75 dBA from 7:00 a.m. to 11:00 p.m. and 65 dBA from 11:00 p.m. to 7:00 a.m. beyond the property line. The following noises are exempt from the regulations:

(a) Noises not directly under the control of the property owner.
(b) Noises from temporary construction or maintenance activities during daylight hours.
(c) Noises from emergency, safety or warning devices.

SEC. 13-1-122 VIBRATION.

(a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
(b) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

SEC. 13-1-123 EXTERNAL LIGHTING.

No operation or activity shall produce any intense glare or lighting with the source directly visible beyond an Industrial District's boundaries.

SEC. 13-1-124 ODOR.

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Chapter NR 154.18, Wisconsin Administrative Code.

SEC. 13-1-125 PARTICULATE EMISSIONS.

No operation or activity shall emit into the ambient air from any direct or portable

source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11, Wisconsin Administrative Code.

SEC. 13-1-126 VISIBLE EMISSIONS.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wisconsin Administrative Code.

SEC. 13-1-127 HAZARDOUS POLLUTANTS.

No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chapter NR 154.19, Wisconsin Administrative Code.

SEC. 13-1-128 AND SEC. 13-1-129 RESERVED FOR FUTURE USE.

ARTICLE J

Satellite Earth Stations; Television or Radio Antenna Towers;
Wind Energy Systems

SEC. 13-1-130 SATELLITE EARTH STATIONS.

(a) **Permit Required.** No owner shall, within the City, build, construct, use or place any type of satellite earth station until a permit shall have first been obtained from the City Clerk-Treasurer.

(b) **Definitions.**

(1) For purposes of this Section, a "satellite television dish" or "earth station" is defined as an apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. They are also commonly referred to as disks, satellite communications systems or home earth stations.

(2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one (1) owner shall be considered an owner.

(c) **Application.** Application for a satellite earth station permit shall be made in writing to the City Clerk-Treasurer. With such application, there shall be submitted a fee of Five Dollars ($5.00) and a complete set of plans and specifications, including a plot plan showing the location of the proposed satellite earth station with respect to adjoining alleys, lot lines and buildings. If such application meets all requirements of this Section, the application shall be approved.

(d) **Installation Restrictions.** Satellite earth stations installed in any zoning district within the City shall comply with the following provisions:

(1) Number of Units. Not more than one (1) satellite earth station may be allowed per individual recorded lot except additional stations may be permitted upon application for a variance in non-residential zones.

(2) Location and Setbacks.

a. Any satellite dish mounting post shall only be located in the rear yard of a residential lot and at least seven (7) feet from any property line. Placement of a satellite dish in a business or industrial district shall not be allowed unless a special exception is granted by the Common Council.

b. If the dish cannot receive a usable satellite signal in the rear yard of any residential lot but can receive such a signal while located in a side yard, it may be located only in a side yard after receiving approval from the Common Council. For corner lots, a side yard is only a yard that does not face a street.

c. If the dish cannot receive a usable satellite signal from either the rear or side yards, it may be located only on the roof of any main or accessory building on the lot. Attachment to the roof shall be subject to engineering calculations being prepared by a registered professional engineer certifying that the proposed satellite television dish installation is structurally sound.

d. No dish shall be placed in the front yard of any residential, business or industrial lot in the City.

e. The Common Council shall determine whether a signal constitutes a usable satellite signal, based on evidence provided by the person seeking a permit to erect or construct the dish.

(3) Mounting. Satellite earth stations located in agricultural or residential districts shall be ground-mounted only. Satellite earth stations may be wall- or roof-mounted in business or industrial districts only. Satellite earth stations attached to the wall or roof of any principal or accessory structure shall be subject to the structure being constructed to carry all imposed loading. The City may require engineering calculations.

(4) Diameter. The diameter of the satellite television dish shall not exceed ten (10) feet for the ground-mounted dish and eight (8) feet for the roof-mounted dish, except for stations used to provide community antenna television services.

(5) Height.

a. A ground-mounted satellite dish may not exceed twelve (12) feet in height, as measured from the ground to the highest point of the dish.

b. A roof-mounted satellite dish may not exceed ten (10) feet in height above the surrounding roof line as measured from the lowest point of the existing roof line.

(6) Wind Pressure. All satellite earth stations shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.

(7) Electrical Installations. Electrical installations in connection with earth satellite receiving stations, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the satellite earth station to the receivers shall be installed underground unless installation site conditions preclude underground. If a satellite earth station is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All satellite earth stations shall be grounded against direct lightning strikes.

(8) Temporary Placement. No portable or trailer-mounted satellite earth station shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding ten (10) days. However, such trial placement shall be in accordance with all provisions of this Section. Failure to comply shall result in a citation being issued for violation of this Section. Any person making such temporary placement shall give written notice to the City Clerk-Treasurer of the date when such placement shall begin and end.

(9) Advertising. No form of advertising or identification, sign or mural is allowed on the dish or framework other than the customary manufacturer's identification plates. The satellite dish shall not be used as a medium for advertisements, signs, murals, endorsements, etc., other than carrying the name of the manufacturer.

(10) Interference with Broadcasting. Satellite earth stations shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the

owner of the satellite earth stations shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

(11) Compliance with Federal Regulations. The installation and use of every satellite earth station shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.

(12) Color. The color of any satellite dish shall be such that it blends into its surroundings and shall be approved by the Common Council as part of the application.

(e) **Variances.** Requests for variances from the standards established by this Section may be made to the Board of Appeals pursuant to Section 13-1-193 of this Chapter.

(f) **Enforcement.**

(1) It shall be unlawful to construct, use, build or locate any satellite television dish in violation of any provisions of this Section. In the event of any violation, the Common Council or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.

(2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-7.

SEC. 13-1-131 RADIO OR TELEVISION ANTENNA TOWERS.

(a) No radio or television antenna tower shall be erected or installed within the front yard or side yard. The rear setback and the side setback in rear yards shall be that for the principal structure with the respective zoning district. The exact location of the antenna tower shall be subject to approval by the Common Council.

(b) No radio or television tower shall exceed a height of twenty (20) feet above the roof line of the building on the property upon which the antenna is located or sixty (60) feet above the ground measured at grade level, whichever is the minimum.

(c) Radio or television antenna towers shall be erected and installed in accordance with the Wisconsin State Electrical Code, National Electrical Safety Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern.

SEC. 13-1-132 SPECIAL USE PERMITS REQUIRED -- WIND ENERGY SYSTEMS.

(a) **Approval Required.** No owner shall, within the City, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.

(b) **Separate Permit Required for each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.

(c) **Basis of Approval.** The Common Council shall base its determination on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the City and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical

attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.

(d) **Fees.** The Common Council shall, by resolution, establish fees for the processing and issuance of conditional use permits under this Article.

(e) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical power.

SEC. 13-1-133 PERMIT PROCEDURE -- WIND ENERGY SYSTEMS.

(a) **Application.** The permit application for a wind energy system shall be made to the City Clerk-Treasurer on forms provided by the City. The application shall include the following information:

(1) The name and address of the applicant.

(2) The address of the property on which the system will be located.

(3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

(4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.

(5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.

(6) Any other information which the Common Council or City Clerk-Treasurer may deem to be necessary to the proper review of the application.

(7) The City Clerk-Treasurer shall review the application and, if the application is complete and contains all required information, shall refer it to the Common Council.

(b) **Hearing.** Upon referral of the application, the Common Council shall schedule a public hearing thereof as soon as practical and the Common Council shall notice said hearing as deemed appropriate.

(c) **Determination.** Following public hearing and necessary study and investigation, the Common Council shall, as soon as practical, render its decision in writing and a copy made a permanent part of the Council's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Common Council may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.

(d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public

welfare, the special grant may be terminated by action of the Common Council following a public hearing thereon.

(e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Common Council and if, in the opinion of the Council, such change or addition constitutes a substantial alteration, a public hearing before the Common Council shall be required and notice thereof be given.

(f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

SEC. 13-1-134 SPECIFIC REQUIREMENTS REGARDING WIND ENERGY SYSTEMS.

(a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.

(b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

(c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.

(d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.

(e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

(f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.

(g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.

(h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

SEC. 13-1-135 THROUGH SEC. 13-1-139 RESERVED FOR FUTURE USE.

ARTICLE K

Accessory Uses and Structures; Fences and Hedges

SEC. 13-1-140 ACCESSORY USES OR STRUCTURES.

(a) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.

(b) **Placement Restrictions -- Residential District.** An accessory use or structure in a residential district may be established subject to the following regulations:

(1) Accessory Building Number Limits. In any residential district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building may be placed on a lot.

(2) Accessory Building Size Limits. Garages and other detached accessory buildings shall be less than fifteen (15) feet in height.

(3) Attached Accessory Buildings. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.

(4) Detached Accessory Buildings. No detached accessory building shall occupy any portion of the required front yard, and no detached accessory building shall occupy more than twenty percent (20%) of the required rear yard or be located within three (3) feet of any other accessory building or eight (8) feet of any lot line or fifteen (15) feet to any alley line. An accessory building shall not be nearer than ten (10) feet to the principal structure unless the applicable building code regulations in regard to one (1) hour fire-resistive construction are complied with. In no event can the accessory uses or structures be forward of the front line of the principal structure.

(c) **Use Restrictions -- Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined herein and shall not be occupied as a dwelling unit.

(d) **Placement Restrictions -- Nonresidential Districts.** An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall not be nearer than three (3) feet to any side or rear lot line.

(e) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three (3) feet to the side line of the adjacent structure.

(f) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.

(g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.

(h) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:

(1) That such private garage shall be located not less than five (5) feet from the front lot line;
(2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and
(3) That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.

(i) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.

(j) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted din setback areas but not closer than three (3) feet to an abutting property line other than a street line.

(k) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.

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

SEC. 13-1-141 OUTSIDE STORAGE OF FIREWOOD.

(a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.

(b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.

(c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of within fifteen (15) days and shall not be allowed to remain on the premises.

(d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.

(e) Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one (1) time.

SEC. 13-1-142 FENCES AND HEDGES.

(a) **Fences Defined.** For the purpose of this Section, a "fence" is herein defined as an enclosed barrier consisting of vegetation, wood, stone or metal intended to prevent ingress or egress. For the purpose of this Section, the term "fence" shall include plantings, such as hedges and shrubbery. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.

(b) **Fences Categorized.** Fences shall be categorized into five (5) classifications:
(1) Boundary Fence. A fence placed on or within three (3) feet of the property lines of adjacent properties.
(2) Protective Fence. A fence constructed to enclose a hazard to the public health, safety and welfare.
(3) Architectural or Aesthetic Fence. A fence constructed to enhance the appearance of the structure or the landscape.
(4) Hedge. A row of bushes of small trees planted close together which may form a barrier, enclosure or boundary.
(5) Picket Fence. A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.

(c) **Height of Fences Regulated.**
(1) A fence, wall, hedge or shrubbery may be erected, placed, maintained or grown along a lot line on residentially zoned property or adjacent thereto to a height not exceeding six (6) feet above the ground level and be no closer than three (3) feet to a public right-of-way, except that no such fence, wall, hedge or shrubbery which is located in a required front or corner side yard shall exceed a height of three (3) feet. Where such lot line is adjacent to a non-residentially zoned property, there shall be an eight (8) foot limit on the height of a fence, wall, hedge or shrubbery along such lot line.
(2) No fence, wall, hedge or shrubbery shall be erected, placed, maintained or grown along a lot line on any non-residentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.
(3) In any residence district, no fence, wall, hedge or shrubbery shall be erected, constructed, maintained or grown to a height exceeding three (3) feet above the street grade nearest thereto, within twenty-five (25) feet of the intersection of any street lines or of street lines projected.

(d) **Setback for Residential Fences.** Fences in or adjacent to a residential property are permitted on lot lines. Fences may be constructed alongside lot lines but shall not extend into the front setback area as extended to the side lot lines.

(e) **Security Fences.** Security fences are permitted on the property liens in all districts except residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

(f) **Prohibited Fences.** No fence shall be constructed which is a picket fence or which is of an otherwise dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.

(g) **Fences to be Repaired.** All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.

(h) **Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.

(i) **Nonconforming Fences and Hedges.** Any fence or hedge existing on the effective date of this Municipal Code and not in conformance with this Section may be

maintained, but no alteration, modification or improvement of said fence shall comply with this Section.

SEC. 13-1-143 SWIMMING POOLS.

(a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than one and one-half (1-1/2) feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.

(b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of fifteen (15) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.

(c) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction as provided for in Subsection (b), unless the following construction requirements are observed:

(1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and code and with any and all Ordinances of the City now in effect or hereafter enacted.

(2) All plumbing work shall be in accordance with all applicable Ordinances of the City and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.

(3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and City Ordinances regulating electrical installations.

(d) **Setbacks and Other Requirements.**

(1) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.

(2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool be less than six (6) feet from any lot line.

(e) **Fence.**

(1) Pools within the scope of this Section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool. Such fence or wall shall not be less than six (6) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension. Gates or doors shall be kept locked while the pool is not in actual use.

(2) The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed failing a minimum of thirty-six (36) inches high on the top.

(f) **Compliance.** All swimming pools existing at the time of passage of this Code of Ordinances not satisfactorily fenced shall comply with the fencing requirements of this Section or when water is placed in the pool.

SEC. 13-1-144 THROUGH SEC. 13-1-149 RESERVED FOR FUTURE USE.

ARTICLE L

Mobile Homes

SEC. 13-1-150 INTENT -- WHERE MOBILE HOME DISTRICTS PERMITTED.

(a) Residential-Mobile Home (R-MH) zoning districts may hereafter be established by amendments to the official zoning map in any district previously classified as residential in accordance with the procedures, requirements and limitations set forth in this Article. Within such districts, mobile homes, with such additional supporting uses and occupancies as are permitted herein, may be established subject to the requirements and limitations set forth in these and other regulations.

(b) It is the intent of this Article to recognize mobile homes constructed prior to October 1, 1974, as distinct and different from units designated as Mobile Homes within the definitions of this Article and to prohibit units not meeting the requirements for Mobile Homes as defined herein. Units constructed prior to 1974 are prohibited. Mobile Homes meeting the requirements of the One- and Two-Family Building Dwelling Code shall not be permitted in a residential Mobile Home (R-MH) District except as a conditional use. Permits may be obtained only after approval by the Common Council.

(c) No person shall park, locate or place any mobile home outside of a licensed mobile home park in the City of Montreal, except unoccupied mobile homes may be parked on the lawfully situated premises of a licensed mobile home dealer for the purposes of sale display; the lawfully situated premises of a vehicle service business for purposes of servicing or making necessary repairs; the premises leased or owned by the owner of such mobile home for purposes of sales display for a period not exceeding one hundred twenty (120) days, provided no business is carried on therein, or in an accessory private garage, building or rear yard of the owner of such mobile home, provided no business is carried on therein.

SEC. 13-1-151 DEFINITIONS.

The following definitions are used in this Article:

(a) **Mobile Home Communities (Parks).** Mobile home communities/parks are distinguished from subdivisions lacking common facilities and continuing management services. The latter would be controlled by general subdivision regulations, which would apply also to mobile home subdivisions without common open space or continuing management.

(b) **Mobile Home Subdivision.** A parcel of land platted for subdivision according to all requirements of the comprehensive plan, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by mobile homes.

(c) **Residential Mobile Home.** A single-family dwelling built on or after October 1, 1974, in accordance with the ANSI Code (American National Standards Institute) or in accordance with the HUD Code (Housing & Urban Development), both of which govern the heating and cooling systems, electrical systems, fire safety, body and frame construction, thermal protections and plumbing systems. All said homes shall bear the proper approved Wisconsin insignia as required by the Wisconsin Administrative Code, ILHR 20.12-20.17. "Mobile home" also means a dwelling which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used

primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances, except that a mobile home is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations and appurtenances equals or exceed fifty percent (50%) of the assessable value of the mobile home. The term "mobile home" shall not include a factory-built structure meeting the following requirements:

(1) Intended to be set on a foundation by virtue of its construction.
(2) Which is normally transported only once, from the factory to the construction site.
(3) Which, from its very beginning, is designed to be permanently affixed to land.

(d) **Foundation Siding.** A fire and weather resistant, pre-finished material surrounding the entire perimeter of a home and completely enclosing a space between the exterior wall of such home and the ground. Foundation siding shall be properly vented, harmonious, and compatible with the house and installed within sixty (60) days from the date of placement on site.

(e) **Primary Exposure.** Open areas adjacent to the front wall (or main entrance) of a dwelling unit.

(f) **Secondary Exposure.** Open areas adjacent to side and rear walls of a dwelling unit.

(g) **Statutory Definitions.** In addition to the above definitions, definitions contained in Section 66.058 of the Wisconsin Statutes shall also be applicable.

SEC. 13-1-152 MOBILE HOME OCCUPANCY PERMITS.

(a) Mobile homes legally located and occupied on premises outside a licensed mobile home park prior to the enactment of this Chapter may be continued in such location, provided that the owner of the premises on which such unit is located shall apply to the City Clerk-Treasurer within sixty (60) days after the original effective date of this Chapter for a use permit showing the date on which such use and occupancy commenced, the names of the owner and occupants and that such use and occupancy is otherwise in conformity with the applicable laws and regulations of the State and City. Such nonconforming use shall be automatically terminated upon a discontinuance for any reason for twelve (12) consecutive months or if the total structural repairs and alterations to the mobile home exceed fifty percent (50%) of the net value.

(b) The owner or occupant of a mobile home shall, within five (5) days after entering of a licensed mobile home park or removing to another park within the City, obtain a permit from the City Clerk-Treasurer. Such permits shall be issued only for mobile homes which bear a seal, stamp or certificate of the manufacturer guaranteeing that the mobile home is constructed in accordance with the standards of the American National Standards Institute Book A 119.1, as originally existing, or, if amended, as amended.

(c) Nothing herein shall prevent the owner of a mobile home under Subsection (a) hereof from replacing the mobile home with a newer model, provided that the replacement unit meets all applicable standards of construction in the industry existing as of the date of replacement, not at the date of manufacture of the replacement unit.

SEC. 13-1-153 MINIMUM DIMENSIONAL REQUIREMENTS FOR R-MH DISTRICTS AND FOR INDIVIDUAL MOBILE HOME COMMUNITIES; MINIMUM NUMBER OF LOTS OR SPACES.

(a) Where a R-MH District is to be established for the development of a single mobile home community only, the minimum area shall be three (3) acres. Minimum number of lots or spaces completed and ready for occupancy before first occupancy is permitted shall be established as twenty-five percent (25%) of total units permitted on zoned site.
(b) These limitations shall not apply where expansion of an existing mobile home community is concerned and where such expansion will not increase variation from requirements applying to mobile home communities, as set forth herein.

SEC. 13-1-154 PERMITTED AND PERMISSIBLE USES AND STRUCTURES.

The following principal uses and structures are permitted within R-MH Districts:
(a) **One-Family Detached Mobile Homes (residential mobile home).** In mobile home communities, recreational vehicles shall not be occupied as living quarters and sales lots shall not be permitted, but dwellings may be sold on lots they occupy in residential use.
(b) **Permitted Accessory Uses and Structures.** Uses and structures that are customarily accessory and clearly incidental to permitted principal uses and structures shall be permitted, except for those requiring specific approval as provided below.

SEC. 13-1-155 MOBILE HOME PARK DEVELOPER'S PERMIT.

(a) No person shall construct, alter, modify or extend any mobile home park or mobile home park building or facility within the limits of the City without first securing a mobile home park developer's permit from the City. Such permits shall be issued by the City Clerk-Treasurer upon approval by the governing body.
(b) Applications for mobile home park developer's permits shall be filed with the City Clerk-Treasurer with sufficient copies for the City Clerk-Treasurer to forward one (1) each to the County Health Department, Building Inspector and Fire Chief, who shall investigate and review said application to determine whether the applicant, the premises on which said park will be located and the proposed design and specifications thereof and all buildings proposed to be constructed thereon will comply with the applicable regulations, ordinances and laws of the State and City and report their findings in writing to the governing body within sixty (60) days. Such reports shall be considered by the governing body before any permit is issued hereunder. Failure of any officer or body to report within the allotted time shall be deemed a favorable recommendation.
(c) Applications for mobile home park developer's permit shall be accompanied by a fee of Twenty-five Dollars ($25.00) to cover the cost of investigation and processing, plus regular building permit fees for all buildings or structures to be erected within the proposed park.
(d) Applications shall be made on forms furnished by the City Clerk-Treasurer and shall include the following information:
    (1) Name and address of applicant.
    (2) Location and legal description of the proposed park, addition, modification or extension.

(3) A complete plot plan showing compliance with all applicable provisions of this Chapter and the municipal building code and zoning and subdivision ordinances.

(4) Completion preliminary engineering plans and specifications, including a scale drawing of the proposed park showing, but not limited to:

a. Plans and specifications of all utilities, including: sewerage collection and disposal, storm water drainage, water and electrical distribution and supply, refuse storage and collection, lighting, telephone and TV antenna systems.

b. Location and width of roadways and walkways, buffer strips, recreational and other common areas.

c. The location of mobile home stands with the mobile home spaces, including a detailed sketch of at least one (1) typical mobile home space and stand therein.

d. Landscape plan showing all plantings.

e. Plans and specifications of all park buildings and structures.

(5) Interest of applicant in proposed mobile home park or extension thereof. If owner of tract is a person other than applicant, a duly verified statement by the owner that applicant is authorized by him to construct and maintain the proposed park, addition, modification or extension and make the application.

(6) Written statements describing proposed park operations, management and maintenance, including proposed fees and charges and other requirements to be imposed on park occupants by the park operator.

(e) Final engineering plans and specifications complying with the provisions of this Article and the zoning regulations and any modifications or conditions imposed by the governing body shall be submitted to the City Clerk-Treasurer and checked by the proper municipal officials for compliance before the license is issued.

SEC. 13-1-156 STANDARD REQUIREMENTS FOR MOBILE HOME PARKS, ADDITIONS OR EXTENSIONS.

All mobile home parks and modifications of or additions or extensions to existing parks shall comply with the following:

(a) Chapter HSS 177, Wisconsin Administrative Code, as now existing or hereafter amended, is hereby made a part of this Chapter and incorporated herein by reference as if fully set forth, except that such regulations shall not be deemed to modify any requirement of this Chapter or any other applicable law or Ordinance of the State or City.

(b) The maximum number of mobile home spaces shall be ten (10) per acre and individual spaces shall not be less than four thousand (4,000) square feet in area and arranged to afford ample area for a variety of units, a common width of fifty (50) feet, a setback of forty (40) feet from all public rights-of-way and ten (10) feet from any park drive or common area, including common parking areas, ten (10) feet from all park boundary lines, twenty (20) feet from any other unit, or ten (10) feet from any accessory building. Accessory structures, such as awnings, cabanas, storage cabinets, carports, windbreaks or attached porches shall be considered part of the unit for purposes of determining compliance with this provision. All drives, parking areas and walkways shall be hard-surfaced; there shall be a minimum yard setback of thirty (30) feet at all lot lines of the mobile home park; no mobile home site shall be rented for a period of less than thirty (30) days; there shall be two (2) surfaced automobile parking spaces for

each mobile home; and unless adequately screened by existing vegetative cover, it shall be screened by: a temporary planting of fast-growing material, capable of reaching a height of fifteen (15) feet or more, such as hybrid poplar, and a permanent evergreen planting, such as white or Norway pine, the individual trees to be such a number and so arranged that within ten (10) years they will have formed a screen equivalent in opacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than fifteen (15) feet.

(c) No mobile home park shall be laid out, constructed or operated without City water supply and sanitary sewer service. All water or sanitary sewerage facilities in any unit not connected with public water or sewer systems by approved pipe connections shall be sealed and their use is hereby declared unlawful.

(d) Individual valved water service connections shall be provided for direct use of each unit, so constructed and installed that they will not be damaged by frost or parking of the unit. Water systems shall be adequate to provide pure, potable water supply of six (6) gallons per minute at a minimum pressure of twenty (20) psi and capable of furnishing a minimum of one hundred fifty (150) gallons per unit per day. Fire hydrants shall be installed within five hundred (500) feet of every mobile home stand and park building.

(e) All liquid wastes originating at units, service or other buildings shall be discharged into a sewerage system extended from and connected with the public sewerage system. Such systems shall comply with all provisions of the State Code and City Ordinances relating to plumbing and sanitation. Each individual space shall be provided with a three (3) inch watertight sewer connection protected from damage by heaving and thawing or parking of the unit and located within the rear one-third (1/3) of the stand, with a continuous grade which is not subject to surface drainage, so constructed that it can be closed when not in use and trapped in such a manner that it can be kept odor free.

(f) Adequate provision shall be made for the disposal of solid and liquid wastes in a manner approved by the Common Council. Open burning of waste or refuse is prohibited.

(g) All television cable systems, electrical and telephone distribution lines and oil or gas piping serving the park or spaces therein shall be installed underground. Distribution systems shall be new and all parts and installations shall comply with all applicable federal, state and local codes.

(h) Each space shall be provided with a weatherproof electrical overcurrent protection device, disconnect means and branch service of not less than sixty (60) amperes for two hundred twenty (220) volt service located adjacent to the water and sewerage outlets. Receptacles shall be of the four (4) pole four (4) wire grounding type and have a four (4) prong attachment for 110-220 volts.

(i) A minimum of two (2) off-street parking spaces surfaced with bituminous concrete or similar material capable of carrying a wheel load of four thousand (4,000) pounds shall be provided for each mobile home space.

(j) Condition of soil, ground water level, drainage and topography shall not create hazards to the property, health or safety of occupants of mobile home spaces or living units. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property within or without the park to hazards.

(k) Exposed ground surfaces in all parts of every mobile home park shall be paved or covered with stone screenings or other solid material or protected with a vegetative growth that is capable of preventing soil erosion and eliminating objectionable dust.

(l) The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, sanitary and efficient manner.

(m) All parks shall be furnished with lighting so spaced and equipped with luminaires placed at such heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

(1) All parts of the park street systems: 0.6 footcandles, with a minimum of 0.1 footcandles.

(2) Potentially hazardous locations, such as major park street intersections and steps or stepped ramps, individually illuminated, with a minimum of 0.3 footcandles.

(n) All mobile home spaces shall abut upon a street. All streets shall be provided with a smooth, hard and dense surface which shall be well drained under normal use and weather conditions for the area. Pavement edges shall be curbed and protected to prevent raveling of the wearing surface and shifting of the pavement base. Grades of streets shall be sufficient to insure adequate surface drainage but not more than eight percent (8%), provided a maximum grade of twelve percent (12%) may be used if approved by the street superintendent, as safe and designed to avoid traffic hazards. Streets shall be at approximately right angles within one hundred (100) feet of an intersection. Intersections of more than two (2) streets at one (1) point shall not be allowed. A distance of at least one hundred fifty (150) feet shall be maintained between center lines of offset intersecting streets.

(o) All parks shall be provided with pedestrian walks between individual mobile homes, park streets and community facilities of not less than three (3) feet in width. Walks in locations where pedestrian traffic is concentrated shall be a minimum of three and one-half (3-1/2) feet wide. Grade and surfacing of walks shall be approved by the City Foreman as safe and comparable to sidewalks in other areas of the municipality subject to similar usage.

(p) All mobile home parks shall have a greenbelt or buffer strip not less than twenty (20) feet wide along all boundaries. Unless adequately screened by existing vegetative cover, all mobile home parks shall be provided within such greenbelt or buffer strip with screening of natural growth or screen fence, except where the adjoining property is also a mobile home park. Compliance with this requirement shall be made within five (5) years from the granting of the mobile home park developer's permit. Permanent planting shall be grown and maintained at a height of not less than six (6) feet. Screening or planting requirements may be waived or modified by the governing body if it finds that the exterior architectural appeal and functional plan of the park, when completed, will be materially enhanced by modification or elimination of such screen planting requirements.

(q) In all mobile home parks, there shall be one (1) or more recreation areas easily accessible to all park residents. No single recreation area shall contain less than two thousand five hundred (2,500) square feet unless each mobile home site is provided with a contiguous common recreational area not less than twenty (20) feet wide at the narrowest dimension. Recreation areas shall be so located as to be free of traffic hazards and convenient to mobile home spaces which they serve.

(r) Single-family nondependent mobile homes and approved accessory structures included in the original plans and specifications or revisions thereof, parks, playgrounds, open space, off-street parking lots, one (1) park office and service buildings for exclusive use of park residents shall be the only permitted uses in mobile home parks, provided the Common Council may approve the following uses when designed and limited to exclusive use of park residents:

(1) Laundromats.

(2) Clubhouses and facilities for private, social or recreation clubs.
(3) Swimming pools.

(s) No signs shall be erected in mobile home parks except signs pertaining to the lease, hire or sale of individual mobile homes not more than two (2) square feet in area and one (1) mobile home park identification sign not more than fifty (50) square feet in area at each park entrance.

(t) All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home space. Entrances to parks shall be designed to minimize congestion and traffic hazards and allow free movement of traffic on adjacent streets.

SEC. 13-1-157 MOBILE HOME PARK OPERATOR'S LICENSE.

(a) It shall be unlawful for any person to establish, operate, maintain or administer or permit to be established, operated or maintained upon any property owned, leased or controlled by him a mobile home park within the City without a valid, unexpired mobile home park license issued by the City Clerk-Treasurer and approved by the Common Council upon determination that the standards in this Section have been met and payment of the required fees.

(b) Mobile home park licenses shall be issued for a calendar year and shall expire on December 31 next succeeding date of issue. Licenses may be issued after January 1 of any year but no rebate or diminution of the fee shall be allowed therefor.

(c) The fee for a mobile home park license shall be Twenty-five Dollars ($25.00) [the Statute allows a minimum of Twenty-five Dollars ($25.00) and a maximum of One Hundred Dollars ($100.00)] for each fifty (50) mobile home spaces or fraction thereof. Licenses may be transferred during a license year for a fee of Ten Dollars ($10.00).

(d) Licenses granted under this Section shall be subject to revocation or suspension by the governing body for cause in accordance with Section 66.058(2), Wis. Stats., and the procedures in that Section shall be followed. "Cause" as used in this Subsection shall include, but not be limited to:
(1) Failure or neglect to abide by the requirements of this Chapter or the laws or regulations of the State of Wisconsin relating to mobile home parks and their operation.
(2) Conviction of any offense under the laws of the State or Ordinances of the City relating to fraudulent or misleading advertising or deceptive practices regarding the sale or renting of mobile homes or the leasing or rental of mobile home spaces or sale, lease or operation of park facilities.
(3) Operation or maintenance of the mobile home park in a manner inimical to the health, safety or welfare of park occupants or the inhabitants of the City, including, but not limited to, repeated violations of laws or ordinances relating to health, sanitation, refuse disposal, fire hazards, morals or nuisances.
(4) Transfer or sale of an ownership interest in any mobile home space or the underlying land other than to another eligible licensee. Such action shall also subject the owner of the underlying land to all requirements of the state or municipal subdivision control laws and regulations regardless of the size or number of lots or spaces so transferred or sold.

(e) Except as provided in Subsection (f) of this Section, no mobile home park license shall be granted for any premises or to any person not meeting the following standards and requirements:

(1) All standards and requirements set forth in Section 13-1-156 except as specifically waived or modified in writing by the Common Council and endorsed on the mobile home developer's permit. This requirement includes a valid certificate from the Wisconsin Department of Health and Social Services that the park complies with the provisions of Ch. HSS 177, Wis. Adm. Code, applicable thereto.

(2) Mobile home parks should be used only for the parking and occupancy of single-family nondependent mobile homes and accessory structures and appurtenances and uses authorized and approved under Section 13-1-156(r).

(3) Applicant shall file with the Common Council certificates certifying that all equipment, roads, sanitary facilities, water facilities and other equipment and facilities, including roads, have been constructed or installed in the park as required by this Chapter and are in required operating condition at the time of said application. In addition, the Building Inspector, County Health Department and the Chief of the Fire Department shall inspect or cause to be inspected each application and the premises to determine compliance with all applicable laws, regulations and ordinances applicable thereto. These officials shall furnish the Common Council in writing the information derived from such investigation and a statement as to whether the applicant and the premises meet the requirements of the department for whom the officer is certifying.

(4) Location and operation of the park shall comply with all zoning and land use Ordinances of the State and City.

(f) Mobile home parks in existence and operating under a valid mobile home park license upon the effective date of this Chapter, including parks in areas hereafter annexed to the City, shall be exempt from the requirements hereof relating to land use and occupancy provided such use and occupancy complies with the applicable laws and ordinances in effect at the time of issuance of the original license but shall file application for a mobile home park developer's nonconforming use permit and comply with all other provisions of this Chapter within six (6) months after the effective date hereof, provided that an existing mobile home park having a density in excess of that provided in Section 13-1-156(r) shall not increase its density and shall be operated in other respects in accordance with this Chapter. The governing body may extend the time for compliance as herein required upon such conditions as it shall determine necessary to protect the health, safety and welfare of park occupants or inhabitants of the City. All extensions, modifications or additions to lawfully licensed existing parks or facilities or structures therein shall comply with this Chapter.

SEC. 13-1-158 OPERATION OF MOBILE HOME PARKS; RESPONSIBILITIES OF PARK MANAGEMENT.

(a) In every mobile home park there shall be located an office of the attendant or person in charge of said park. A copy of the park license and of this Chapter shall be posted therein and the park register shall, at all times, be kept in said office.

(b) The attendant or person in charge and the park licensee shall operate the park in compliance with this Chapter and regulations and Ordinances of the City and State and their agents or officers and shall have the following duties:

(1) Maintain a register of all park occupants, to be open at all times to inspection by state, federal and municipal officers, which shall show:

a. Names and addresses of all owners and occupants of each mobile home.

b. Number of children of school age.

c. State of legal residence.
d. Dates of entrance and departure of each mobile home.
e. Make, model, year and serial number or license number of each mobile home and towing or other motor vehicles and state, territory or country which issued such licenses.
f. Place of employment of each occupant, if any.

(2) Notify park occupants of the provisions of this Chapter and inform them of their duties and responsibilities and report promptly to the proper authorities any violations of this Chapter or any other violations of law which may come to their attention.

(3) Report all cases of persons or animals affected or suspected of being affected with any dangerous communicable disease.

(4) Supervise the placement of each mobile home on its stand which includes securing its stability and installing all utility connections and tiedowns.

(5) Maintain park grounds, buildings and structures free of insect and rodent harborage and infestation and accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

(6) Maintain the park free from growth of noxious weeds.

(7) Maintain the park free of litter, rubbish and other flammable materials; provide portable fire extinguishers of a type approved by the Fire Chief in all locations designated by the Chief and maintain such extinguishers in good operating condition and cause every area within the park designated as a fire lane by the Fire Chief to be kept free and clear of obstructions.

(8) Check to insure that every mobile home unit has furnished, and in operation, a substantial, fly-tight, watertight, rodentproof container for the deposit of garbage and refuse in accordance with the Ordinances of the City. The management shall provide stands for all refuse and garbage containers so designed as to prevent tipping and minimize spillage and container deterioration and facilitate cleaning.

(9) Provide for the sanitary and safe removal and disposal of all refuse and garbage at least weekly. Removal and disposal of garbage and refuse shall be in accordance with the laws of the State of Wisconsin and the Ordinances and regulations of the municipality, including regulations promulgated by the Fire Chief.

(10) Allow inspections of park premises and facilities at reasonable times by municipal officials or their agents or employees as provided by Section 13-1-160(b) of this Chapter.

SEC. 13-1-159 RESPONSIBILITIES AND DUTIES OF MOBILE HOME PARK OCCUPANTS.

(a) Park occupants shall comply with all applicable requirements of this Chapter and regulations issued hereunder and shall maintain their mobile home space, its facilities and equipment in good repair and in a clean and sanitary condition.

(b) Park occupants shall be responsible for proper placement of their mobile homes on the mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.

(c) No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large or to cause any nuisance within the limits of any mobile home park.

(d) Each owner or occupant of a nonexempt mobile home within a mobile home park shall remit to the licensee or authorized park management the cash deposit and monthly parking permit fee.

(e) It shall be the duty of every occupant of a park to give the park licensee or management, or his agent or employee, access to any part of such park or mobile home premises at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this Chapter or any law or Ordinance of the State or City or lawful regulation or order adopted thereunder.

(f) Mobile homes shall be parked only on the mobile home stands provided and shall be placed thereon in accordance with all requirements of this Chapter.

(g) No mobile home owner or occupant shall conduct in any unit or any mobile home park any business or engage in any other activity which would not be permitted in single-family residential areas in the City.

(h) No person shall discharge any wastewater on the surface of the ground within any mobile home park.

(i) No person shall erect or place upon any mobile home space any permanent or temporary structure intended to be used for dwelling purposes or in connection with any mobile home unit except as specifically authorized by this Chapter.

SEC. 13-1-160 ADDITIONAL REGULATIONS ON MOBILE HOMES AND MOBILE HOME PARKS.

(a) Wrecked, damaged or dilapidated mobile homes shall not be kept or stored in a mobile home park or upon any premises in the City. The Building Inspector or Common Council shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy. Such mobile homes are hereby declared to be a public nuisance. Whenever the Building Inspector or Common Council so determines, he shall notify the licensee or landowner and owner of the mobile home in writing that such public nuisance exists within the park or on lands owned by him giving the findings upon which his determination is based and shall order such home removed from the park or site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time, but not less than thirty (30) days.

(b) Authorized representatives of the Common Council are authorized and directed to inspect mobile home parks not less than once in every twelve (12) month period to determine the health, safety and welfare of the occupants of the park and inhabitants of the City as affected thereby and the compliance of structures and activities therein with this Chapter and all other applicable laws of the State and Ordinances of the City.

(c) Fires in mobile home parks shall be made only in stoves and other cooking or heating equipment intended for such purposes. Outside burning is prohibited except by permit and subject to requirements or restrictions of the Fire Chief.

(d) All plumbing, building, electrical, oil or gas distribution, alterations or repairs in the park shall be in accordance with the regulations of applicable laws, ordinances and regulations of the State and municipalities and their authorized agents.

(e) All mobile homes in mobile home parks shall be skirted unless the unit is placed within one (1) foot vertically of the stand with soil or other material completely closing such space from view and entry by rodents and vermin. Areas enclosed by such skirting shall be maintained free of rodents and fire hazards.

(f) No person shall construct, alter or add to any structure, attachment or building in a mobile home park or on a mobile home space without a permit from the Building Inspector. Construction on, or addition or alteration to the exterior of a mobile home shall be of the same type of construction and materials as the mobile home affected. This Subsection shall not apply to addition of awnings, antennas or skirting to mobile homes. Accessory structures on mobile home

spaces shall comply with all setback, side yard and rear yard requirements for mobile home units.

(g) Storage under mobile homes is prohibited.

SEC. 13-1-161 COMPLIANCE WITH PLUMBING, ELECTRICAL AND BUILDING ORDINANCES.

All plumbing, electric, electrical, building and other work on or at any mobile home park under this Chapter shall be in accordance with the Ordinances of the City and the requirements of the State Plumbing, Electrical and Building Codes and the regulations of the State Board of Health. Licenses and permits granted under this Chapter grant no right to erect or repair any structure, to do any plumbing work or to do any electric work.

SEC. 13-1-162 LIMITATIONS ON SIGNS.

In connection with Mobile Home Communities, no sign intended to be read from any public way adjoining the district shall be permitted except:

(a) No more than one (1) identification sign, not exceeding twenty (20) square feet in area, for each principal entrance.

(b) No more than one (1) sign, not exceeding four (4) square feet in area, advertising property for sale, lease or rent, or indicating "Vacancy" or "No Vacancy," may be erected at each principal entrance.

(c) In the case of new mobile home communities consisting in whole or in part of mobile home subdivisions or condominiums, one (1) sign, not exceeding twenty (20) square feet in area, may be erected for a period of not more than two (2) years at each principal entrance to advertise the sale of lots or dwellings.

(d) No source of illumination for any such signs shall be directly visible from adjoining streets or residential property, and no such signs shall be erected within five (5) feet of any exterior property line.

SEC. 13-1-163 COMMON RECREATIONAL FACILITIES.

(a) No less than ten percent (10%) of the total area of any mobile home community established under these regulations shall be devoted to common recreational areas and facilities, such as playgrounds, swimming pools, community buildings, ways for pedestrians and cyclists away from streets and play areas for small children for other recreational areas in block interiors. At least one (1) principal recreation and community center shall contain not less than five percent (5%) of the total area of the community.

(b) To be countable as common recreational area, interior-block ways for pedestrians or cyclists shall form part of a system leading to principal destinations. Such ways may also be used for installations of utilities.

(c) Common recreational area shall not include streets or parking areas, shall be closed to automotive traffic except for maintenance and service vehicles, and shall be improved and maintained for the uses intended.

SEC. 13-1-164 STANDARDS FOR GENERAL SITE PLANNING FOR MOBILE HOME COMMUNITIES.

The following guides, standards and requirements shall apply in site planning for mobile home communities:

(a) **Principal Vehicular Access Points.** Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, minor streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by substantial amounts of through traffic. No lot within the community shall have direct vehicular access to a street bordering the development.

(b) **Access for Pedestrians and Cyclists.** Access for pedestrians and cyclists entering or leaving the community shall be by safe and convenient routes. Such ways need not be adjacent to or limited to the vicinity of vehicular access points. Where there are crossings of such ways and vehicular routes at edges of planned developments, such crossings shall be safety located, marked and controlled and where such ways are exposed to substantial vehicular traffic at edges of communities, safeguards may be required to prevent crossings except at designated points. Bicycle paths, if provided, shall be so related to the pedestrian way system that street crossings are combined.

(c) **Protection of Visibility -- Automotive Traffic, Cyclists and Pedestrians.** At intersections of any streets, public or private, the provisions of Section 13-1-90 shall apply and is hereby adopted by reference. Where there is pedestrian or bicycle access from within the community to a street at its edges by paths or across yards or other open space without a barrier to prevent access to the street, no material impediment to visibility more than two and five-tenths (2.5) feet above ground level shall be created or maintained within twenty-five (25) feet of said street unless at least twenty-five (25) feet from said access measured at right angles to the path.

(d) **Exterior Yards for Mobile Home Communities; Minimum Requirements; Occupancy.** The following requirements and limitations shall apply to yards at the outer edges of mobile home communities:

(1) Along Public Streets. Where R-MH communities adjoin public streets along exterior boundaries, a yard at least twenty-five (25) feet in minimum dimensions shall be provided adjacent to such streets. Such yard may be used to satisfy open space depth requirements for individual dwellings but shall not contain carports, recreational shelters, storage structures or any other structures generally prohibited in yards adjacent to streets in residential districts. No direct vehicular access to individual lots shall be permitted through such yards, and no group parking facilities or active recreation areas shall be allowed therein.

(2) At Edges of R-MH Districts (Other Than at Streets or Alleys). Where R-MH communities are so located that one (1) or more boundaries are at the edges of R-MH districts and adjoining neighboring districts without an intervening street, alley or other permanent open space at least twenty (20) feet in width, an exterior yard at least twenty (20) feet in minimum dimension shall be provided. Where the adjoining district is residential, the same limitations on occupancy and use of such yards shall apply as stated above concerning yards along public streets. Where the adjoining district is nonresidential, such yards may be used for group or individual parking, active recreation facilities or carports, recreational shelters or storage structures.

(e) **Ways for Pedestrians and/or Cyclists in Exterior Yards.** In any exterior yard, required or other, ways for pedestrian and/or cyclists may be permitted, if appropriately located, fenced or landscaped to prevent potential hazards arising from vehicular traffic on adjacent streets or other hazards and annoyances to users or to occupants of adjoining property. When otherwise in accord with the requirements concerning such ways set forth above, approved ways in such locations shall be counted as common recreation facilities and may also be used for utilities easements.

(f) **Yards, Fences, Walls or Vegetative Screening at Edges of Mobile Home Communities.** Along the edges of mobile home communities, walls or vegetative screening shall be provided where needed to protect residents from undesirable views, lighting, noise, or other off-site influences or to protect occupants of adjoining residential districts from potentially adverse influences within the mobile home community. In particular, extensive off-street parking areas and service areas for loading and unloading other than passenger vehicles, and for storage and collection of trash and garbage, shall be screened.

(g) **Internal Relationships.** The site plan shall provide for safe, efficient, convenient and harmonious groupings of structures, uses and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features. In particular:

(1) Streets, Drives and Parking and Service Areas. Streets, drives and parking and service areas shall provide safe and convenient access to dwellings and community facilities and for service and emergency vehicles, but streets shall not be so laid out as to encourage outside traffic to traverse the community, nor occupy more land than is required to provide access as indicated, nor create unnecessary fragmentation of the community into small blocks. In general, block size shall be the maximum consistent with use, the shape of the site and the convenience and safety of the occupants.

(2) Vehicular Access to Streets. Vehicular access to streets from off-street parking areas may be direct from dwellings if the street or portion of the street serves fifty (50) units or less. Determination of units served shall be based on normal routes anticipated for traffic. Along streets or portions of streets serving more than fifty (50) dwelling units, or constituting major routes to or around central facilities, access from parking and service areas shall be so combined, limited, located, designed and controlled as to channel traffic conveniently, safely and in a manner that minimizes marginal traffic friction, and direct vehicular access from individual dwellings shall generally be prohibited.

(3) Ways for Pedestrians and Cyclists; Use by Emergency, Maintenance or Service Vehicles.

a. Walkways shall form a logical, safe and convenient system for pedestrian access to all dwellings, project facilities and principal off-street pedestrian destinations. Maximum walking distance in the open between dwelling units and related parking spaces, delivery areas and trash and garbage storage areas intended for use of occupants shall not exceed one hundred (100) feet.

b. Walkways to be used by substantial numbers of children as play areas or routes to school, bus stops or other destinations shall be so located and safeguarded as to minimize contracts with normal automotive traffic. If an internal walkway system is provided, away from streets, bicycle paths shall be incorporated in the walkway system. Street crossings shall be held to a minimum on such walkways and shall be located and designated to provide safety and shall be appropriately marked and otherwise safeguarded. Ways for pedestrians and cyclists,

appropriately located, designed and constructed may be combined with other easements and used by emergency, maintenance or service vehicle but shall not be used by other automotive traffic.

SEC. 13-1-165 RECREATIONAL VEHICLE AND TRAVEL TRAILER PARKS.

(a) **Definitions.** As used in this Section, the following terms shall have the meaning hereafter designated:
   (1) "Travel trailer" means all vehicles and portable structures built on a chassis, whether designated to be towed upon the highway or self-propelled, designated as a temporary or permanent dwelling for travel, recreational or vacation use. Travel trailers shall not include mobile homes.
   (2) "Travel trailer space" means a plot of ground within a travel trailer park designated for the accommodation of one (1) travel trailer.
   (3) "Service building" means a building housing toilet facilities for men and women and may also include buildings containing bathing and laundry facilities or other facilities desired by the licensee.

(b) **Location of Travel Trailers Outside Parks.**
   (1) No person shall occupy or park for purposes of occupancy any travel trailer on any public or private street or land within the City of Montreal outside of a licensed travel trailer park.
   (2) Parking of unoccupied travel trailers outside an approved travel trailer park is lawful in the following instances:
      a. On the premises of an authorized travel trailer dealer provided no business is practiced therein.
      b. One (1) travel trailer unit may be parked in an accessory private garage or building or a rear yard of the owner provided no business is practiced therein.
      c. On the premises of any vehicle service business for the purpose of servicing or making repairs thereto.

(c) **Permanent Occupancy Prohibited.**
   (1) No travel trailer shall be used as a permanent place of abode, dwelling or business or for an indefinite period of time. Continuous occupancy extending beyond three (3) months in any twelve (12) month period shall be presumed to be permanent occupancy.
   (2) Any action toward removal of the wheels of a travel trailer, except for temporary purposes of repair or to attach the trailer to the grounds for stabilizing purposes is hereby prohibited.

(d) **License for Travel Trailer Park.**
   (1) No person shall establish, operate or maintain a travel trailer park or permit the same on premises owned, leased or controlled by him within the City of Montreal without first having obtained a valid unexpired license therefor issued by the Municipal Clerk and approved by the Common Council.
   (2) Travel trailer park licenses shall expire one (1) year from the date of issue and may be renewed for additional one (1) year periods under this Section.
   (3) Licenses shall be subject to revocation or suspension by the governing body for violation of any of the provisions of this Section or terms or conditions imposed by the governing body and endorsed upon the license, or any of the Ordinances of the City regulating health, morals, safety or welfare. Such revocation or suspension shall be governed by the provisions of Sec. 66.058(2)(d), Wis. Stats.

(4) Any person whose license has been suspended or revoked under this Section shall not be eligible for a license or renewal hereunder for a period of twelve (12) months thereafter.

(5) The application for such license, original or renewal, shall be filed with the Clerk-Treasurer on April 1 and shall be accompanied by a fee of Fifty Dollars ($50.00).

(6) Unexpired travel trailer park licenses may be transferred from one (1) owner or operator to another upon payment of a fee of Ten Dollars ($10.00) to the City Clerk-Treasurer.

(e) **Location and Design of Travel Trailer Parks.**

(1) The minimum tract size of a travel trailer park shall be a suggested five (5) acres.

(2) Travel trailer spaces within each park shall have a minimum width of twenty (20) feet and a minimum depth of thirty (30) feet.

(3) A minimum of one and one-half (1-1/2) off-street automobile parking spaces shall be provided for each travel trailer space within the park.

(4) All travel trailer parks shall be designed to provide maximum feasible privacy to occupants and located on such sites within the City of Montreal as are most appropriate to recreational use and not contrary to the zoning ordinance, building or other ordinances or regulation of the City and not to create traffic hazards.

(5) Travel trailer parks shall be designed to blend with and enhance the beauty and economic value of the surrounding properties and to produce an attractive environment of sustained aesthetic and ecological desirability.

(6) All construction within a travel trailer park shall comply with the building, electrical, heating and plumbing and health codes of the State of Wisconsin and the City of Montreal.

(7) Each travel trailer park shall contain at least one (1) service building housing sanitation and toilet facilities for men and women.

(8) All plumbing and sanitary facilities and service within the park, except those located within individual travel trailers, shall be connected to the municipal public water and sewage system. All access to service buildings will be provided walkways, and such walkways shall be graveled or paved.

(9) Each travel trailer space shall be furnished with an electrical service outlet equipped with an externally operated switch or fuse of not less than thirty (30) amperes capacity and a heavy-duty outdoor outlet receptacle.

(10) In travel trailer parks or extensions of existing travel trailer parks, all distribution lines, including without limitation, electrical, water, sewerage and telephone lines, shall be located underground.

(f) **Responsibilities and Duties of Travel Trailer Park Management.**

(1) The person to whom a travel trailer park license is issued shall provide adequate supervision to maintain the park in compliance with this Section and keep facilities and equipment therein in good repair and in a clean and sanitary condition.

(2) There shall be located in every trailer park a park office wherein the licensee or his agent shall maintain a register of all park occupants, to be open at all times to inspection by the state, federal and municipal officers showing:

a. Names and addressees of all owners and occupants of each travel trailer.

b. Dates of entrance and departure of each travel trailer.

c. Make, model, year and serial number or license number of each travel trailer and towing or other motor vehicle and state, territory or county issuing such license.

(3) The licensee or his agent shall inform all travel trailer residents of the provisions of this Chapter and their duties and responsibilities hereunder.
(4) The licensee of his agent shall notify the health officer immediately of any suspected communicable or contagious disease within the park.
(5) The licensee or his agent shall provide for the sanitary and safe removal and disposal of all refuse and garbage at least weekly from the park in accordance with the laws of the State and ordinance of the municipality or orders or regulations of the Building Inspector, Health Officer or Fire Chief.
(6) The licensee shall provide portable fire extinguishers of a type, number and placement approved by the Fire Chief and maintain such extinguishers in good operating condition.

(g) **Duties and Responsibilities of Travel Trailer Owners and Occupants.**
(1) Every travel trailer owner or occupant shall comply with all applicable travel trailer requirements of this Section or other ordinances or regulations of the City.
(2) The travel trailer owner or occupant shall be responsible for proper placement of his travel trailer on the space. Travel trailers shall not be located less than ten (10) feet from any other trailer or building within the park nor less than twenty-five (25) feet from any park boundary.
(3) Pets, if permitted by the park management, shall not be permitted by the owners to run at large or commit any nuisance within the park.
(4) No person within a travel trailer park shall store or dispose of rubbish or garbage in any unclean, unsanitary or unsafe manner. Garbage and refuse shall be placed in rodent-proof, insect-proof, water-tight containers provided by the park licensee.

(h) **Inspection and Enforcement.** The licensee of every travel trailer park and his agents and employees shall grant access to the enforcement officers of the City or their authorized agents at all reasonable times for the purpose of inspecting the premises for compliance with this or any other ordinance of the City. The Fire Chief, Building Inspector and Health Officer shall inspect or cause to be inspected all travel trailer parks within the City at least once in every three (3) month period.

SEC. 13-1-166 THROUGH SEC. 13-1-169 RESERVED FOR FUTURE USE.

ARTICLE M

Administration

SEC. 13-1-170 GENERAL ADMINISTRATIVE SYSTEM.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and action by the Common Council. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

SEC. 13-1-171 ZONING ADMINISTRATOR.

The Common Council shall designate a City official to serve as the Zoning Administrator and as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further:

(a) Maintain records of all permits issued, inspections made, work approved and other official actions.
(b) Record the lowest floor elevations of all structures erected, moved, altered or improved in the floodland districts.
(c) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
(d) Inspect all structures, lands and waters as often as necessary to assure compliance with this Chapter.
(e) 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 Chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the City Attorney in a manner specified by him.
(f) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
(g) Request assistance and cooperation from the City Clerk-Treasurer, Building Inspector and City Attorney as deemed necessary.

SEC. 13-1-172 ROLE OF SPECIFIC CITY OFFICIALS IN ZONING ADMINISTRATION.

(a) **Common Council.** The Common Council, the governing body of the City, subject to the holding of public hearings by said Council, has ultimate authority to grant permitted conditional uses, planned unit development conditional uses, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this Chapter.
(b) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article O of this Chapter for detail provisions.

SEC. 13-1-173 ZONING PERMIT.

(a) **Zoning Permit Required.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit.

(b) **Application.** Applications for a zoning permit shall be made to the Zoning Administrator and shall include the following where pertinent and necessary for proper review:
   (1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
   (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) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Zoning Administrator: 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; public utilities; 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.
   (4) Additional information as may be required by the Zoning Administrator or Common Council.

(c) **Action.**
   (1) A zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days of application and the applicant shall post such permit in a conspicuous place at the site.
   (2) The permit shall expire within six (6) months unless substantial work has commenced or within eighteen (18) months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration, the application shall reapply for a zoning permit before commencing work on the structure.
   (3) Any permit issued in conflict with the provisions of this Chapter shall be null and void.

SEC. 13-1-174 SITE PLAN APPROVAL.

(a) **Site Plan Approval.** All applications for Zoning Permits for any construction, reconstruction, expansion or conversion, except for one (1) and two (2) family residences in Residential Districts, shall require site plan approval by the Common Council in accordance with the requirements of this Section.

(b) **Application.** The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Common Council or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.

(c) **Administration.** The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Common Council within ten (10) days. The Plan Commission shall review the application and may refer the application and plans to any expert consultants

selected by the Common Council to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within thirty (30) days of its receipt of the application, the Common Council shall authorize the Zoning Administrator to issue or refuse a Zoning Permit.

(d) **Requirements.** In acting on any site plan, the Common Council shall consider the following:
   (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
   (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
   (3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
   (4) The landscaping and appearance of the completed site. The Common Council may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section.

(e) **Effect on Municipal Services.** Before granting any site approval, the Common Council may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the City Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Common Council shall not issue final approval until the Common Council has entered into an agreement with the applicant regarding the development of such facilities.

SEC. 13-1-175 VIOLATIONS AND PENALTIES.

(a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Common Council, the Zoning Administrator or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.

(b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Common Council, the Zoning Administrator or the City Attorney may institute appropriate legal action or proceedings.

(c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-7 of this Code of Ordinances.

SEC. 13-1-176 THROUGH SEC. 13-1-179 RESERVED FOR FUTURE USE.

ARTICLE N

Changes and Amendments to the Zoning Code

SEC. 13-1-180 AUTHORITY.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Common Council may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review of the Common Council.

SEC. 13-1-181 INITIATION OF CHANGES OR AMENDMENTS.

The Common Council, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this Chapter to the District boundaries hereby established or by amendments hereto in the accompanying zoning map made a part of this Chapter and/or the Supplementary Floodland Zoning Map to be made a part of this Chapter by reference.

SEC. 13-1-182 PROCEDURE FOR CHANGES OR AMENDMENTS.

(a) **Application.** Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Common Council and shall be filed with the Zoning Administrator, describe the premises to be rezoned or the portions of text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:
   (1) Plot plan, drawn to a scale of one (1) inch equals one hundred (100) feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned.
   (2) Owners' names and addresses of all properties lying within one hundred (100) feet of the area proposed to be rezoned.
   (3) Together with additional information as may be required by the Common Council.

(b) **Hearings.**
   (1) The Common Council shall hold a public hearing at a time established by the Common Council upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes. At least ten (10) days' prior, written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.

(c) **Common Council's Action.** Following such hearing, the Common Council shall vote on the proposed ordinance effecting the proposed change or amendment.

SEC. 13-1-183 PROTEST.

(a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Common Council membership.

(b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Common Council membership to adopt such amendment.

SEC. 13-1-184 THROUGH SEC. 13-1-189 RESERVED FOR FUTURE USE.

ARTICLE O

Appeals

SEC. 13-1-190 APPEALS TO THE ZONING BOARD OF APPEALS.

(a) **Scope of 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 affected by any decision of the administrative officer. Such appeal shall be taken within reasonable thirty (30) days of the alleged grievance or judgment in question 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 appeals from was taken.

(b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(c) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:

(1) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.

(2) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.

(3) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Common Council has made a review and recommendation.

(4) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Common Council has made a review and recommendation. Whenever the Council permits such a substitution, the use may not thereafter be changed without application.

(5) Unclassified Uses. To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Common Council has made a review and recommendation.

(6) Temporary Uses. To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Common Council has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period

not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.

(7) Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

SEC. 13-1-191 HEARING ON APPEALS.

The Board of Appeals shall fix a reasonable time for the hearing, 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) days prior to the hearing of the fee owners of records of all land within one hundred (100) feet of any part of the subject building or premises involved in the appeal.

SEC. 13-1-192 DECISIONS OF BOARD OF APPEALS.

(a) **Timeframe.** The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.

(b) **Conditions.** Conditions may be placed upon any zoning permit ordered or authorized by this Board.

(c) **Validity.** Variances, substitutions or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

SEC. 13-1-193 VARIATIONS.

(a) **Purpose.**

(1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.

(2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection that the flood protection elevation for the particular area or permit standards lower than those required by state law.

(3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

(b) **Application for Variation.** The application for variation shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:
   (1) Name and address of applicant and all abutting and opposite property owners of record.
   (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
   (3) Address and description of the property.
   (4) A site plan showing an accurate depiction of the property.
   (5) Additional information required by the City Engineer, Common Council, Zoning Board of Appeals or Zoning Administrator.
   (6) Fee receipt in the amount of Twenty-five Dollars ($25.00).

(c) **Public Hearing of Application.** The Board of Appeals shall conduct at least one (1) public hearing on the proposed variation. Notice of such hearing shall be given not more than thirty (30) days and not less than ten (10) days before the hearing in one (1) or more of the newspapers in general circulation in the City, and shall give due notice to the parties in interest, the Zoning Administrator and the Board of Appeals. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.

(d) **Action of the Board.** For the Board to grant a variance, it must find that:
   (1) Denial of variation may result in hardship to the property owner due to physiographical consideration. There must 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 or recurrent nature as to suggest that the Zoning Code should be changed.
   (2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
   (3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
   (4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
   (5) The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code.

(e) **Conditions.** The Board of Appeals on appeal may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

SEC. 13-1-194 REVIEW BY COURT OF RECORD.

Any person or 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 thirty (30) days after the filing of the decision in the offices of the Board of Appeals.

SEC. 13-1-195 THROUGH SEC. 13-1-199 RESERVED FOR FUTURE USE.

ARTICLE P

Definitions

SEC. 13-1-200 DEFINITIONS.

(a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.

(1) Abutting. Have a common property line or district line.

(2) Accessory Use or Structure. A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.

(3) Acre, Net. The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.

(4) Alley. A public way not more than twenty-one (21) feet wide which affords only a secondary means of access to abutting property.

(5) Apartment. A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

(6) Arterial Street. A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.

(7) A Zones. Areas of potential flooding shown on the City's "Flood Insurance Rate Map" which would be inundated by the regional flood as defined herein. These zones may be numbered as A0, A1 to A99, or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

(8) Basement. That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-around living accommodations. Space partly below grade which is designed and finished as habitable space is not defined as basement space.

(9) Block. A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.

(10) Boarding House. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for three (3) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

(11) Buildable Lot Area. The portion of a lot remaining after required yards have been provided.

(12) Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

(13) Building, Detached. A building surrounded by open space on the same lot.

(14) Building, Heights of. The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.

(15) Building Setback Line. A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Code.

(16) Building, Principal. A building in which the principal use of the lot on which it is located is conducted.

(17) Business. An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.

(18) Channel. Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.

(19) Community Living Arrangement. The following facilities licensed or operated or permitted under the authority of the Wisconsin State Statutes: Child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(7m) and community-based residential facilities under Section 50.01, but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wisconsin State Statutes, including Sections 46.03(22), 69.97(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

(20) Conditional Uses. Uses of a special nature as to make impractical their predetermination as a principal use in a district.

(21) Controlled Access Arterial Street. The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.

(22) Corner Lot. On corner lots, the setback shall be measured from the street line on which the lot fronts. The setback from the side street shall be equal to seventy-five percent (75%) of the setback required on residences fronting on the side street -- but the side yard setback shall in no case restrict the buildable width to less than thirty (30) feet. Said corner lots shall be consisting of a parcel of property abutting on two (2) or more streets at their intersection providing that the interior angle of such intersection is less than one hundred thirty-five degrees (135^{o}).

(23) Conservation Standards. Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide, prepared by the USDA Soil Conservation Service for Iron County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.

(24) Development. Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.

(25) District, Basic. A part or parts of the City for which the regulations of this Chapter governing the use and location of land and building are uniform.

(26) District, Overlay. Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

(27) Dwelling. A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

(28) Dwelling Unit. A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.

(29) Dwelling, Efficiency. A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

(30) Dwelling, Single-Family. A detached building designed for or occupied by one (1) family.

(31) Dwelling, Two-Family. A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.

(32) Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.

(33) Equal Degree of Hydraulic Encroachment. The effect of any encroachment into the floodway is to be computed by assuming an equal degree of hydraulic encroachment on the opposite side of a river or stream for a significant hydraulic reach, in order to compute the effect of the encroachment upon hydraulic conveyance. This computation assures that the property owners up, down or across the river or stream will have the same rights of hydraulic encroachment.

(34) Essential Services. Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

(35) Family. One (1) or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family. A family may include in addition thereto two (2) but not more than two (2) persons not related by blood, marriage or adoption. A person shall be considered to be related for the purpose of this Section if he is dwelling for the purpose of adoption or for a foster care program.

Exceptions: Nothing in this Chapter shall prohibit, under the definition of "Family," priests, laybrothers, nurses or such other collective body of persons living together in one (1) house under the same management and care, subsisting in common, and directing their attention to a common object or the promotion of their mutual interest and social happiness as set forth by the Wisconsin Supreme Court in Missionaries of Our Lady of LaSallette vs. City of Whitefish Bay Board of Zoning Appeals, 267 Wis. 609, which is hereby incorporated by reference.

(36) Farmstead. A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.

(37) Flood. A temporary rise in streamflow or stage in lake level that results in water overtopping the banks and inundating the areas adjacent to the steam channel or lake bed.

(38) Flood Insurance Study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mud flow) and/or floor-related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either numbered or unnumbered A Zones.

(39) Flood Profile. A graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.

(40) Flood Protection Elevation. A point two (2) feet above the water surface elevation of the 100-year recurrence interval flood. This safety factor, also called "freeboard," is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action and obstructions of bridge openings.

(41) Flood Stage. The elevation of the floodwater surface above an officially established datum plane, which is Mean Sea Level, 1929 Adjustment, on the Supplementary Floodland Zoning Map.

(42) Floodlands. For the purpose of this Code, the floodlands are all lands contained in the "regional flood" or 100-year recurrence interval flood. For the purpose of zoning regulation, the floodlands are divided into the floodway district, the floodplain conservancy district and the floodplain fringe overlay district.

(43) Floodplain Fringe. Those floodlands, outside the floodway, subject to inundation by the 100-year recurrence interval flood. For the purpose of this Code, the floodplain fringe includes the floodplain conservancy district and the floodplain fringe overlay district.

(44) Floodproofing. Measures designed to prevent and reduce flood damage for those uses which cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from structural modifications through installation of special equipment or materials, to operation and management safeguards, such as the following: reinforcing the basement walls; underpinning of floors; permanent sealing of all exterior openings; use of masonry construction; erection of permanent watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of seal-tight windows and doors; installation of wire reinforced glass; location and elevation of valuable items; waterproofing, disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable areas; temporary removal of waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valve; placement of plugs and food drain pipes; placement of movable watertight bulkheads; erection of sand bag levees; and the shoring of weak walls or structures. Floodproofing of structures shall be extended at least to a point two (2) feet above the elevation of the regional flood. Any structure that is located entirely or partially below the flood protection elevation shall be anchored to protect it from larger floods.

(45) Floodway. A designated portion of the 100-year flood area that will safely convey the regulatory flood discharge with small, acceptable upstream and

downstream stage increases, limited in Wisconsin to 0.1 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.

(46) Floor Area -- Business and Manufacturing Buildings. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

(47) Foster Family Home. The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of the Wisconsin State Statutes and amendments thereto.

(48) Frontage. All the property butting on one (1) side of a street between two (2) intersecting streets or all of the property abutting on one (1) side of a street between an intersecting street and the dead end of a street.

(49) Garage -- Private. A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.

(50) Garage -- Public. Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.

(51) Group Foster Home. Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.

(52) Home Occupation. Any business or profession carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building or accessory building thereto, in connection with which there are no signs or exterior display or storage other than a sign permitted by this Chapter, and no activity that will indicate from the exterior that the building(s) is being used in whole or in part for any purpose other than that of a dwelling. The use is to be clearly incidental to the use of the dwelling unit for residential purposes and shall not endanger the public health or safety. No articles shall be sold or offered for sale on the premises except such as is produced by the occupation on the premises, and no mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use. Persons operating a home occupation shall employ no more than one (1) nonresident employee. No business such as a shop, store or child nursery shall be conducted upon the premises. No material or equipment shall be stored outside the confines of the home. No mechanical equipment may be used which creates a disturbance such as noise, dust, odor or electrical disturbance. The home may not be altered to attract business. No motors shall be utilized which exceed one (1) horse power each and not exceeding five (5) horsepower in total, such activity being deemed a public nuisance. Repairing of motor bicycles, motorcycles and motor driven cycles, other than those licensed and owned by the occupants of a home in a residential area is strictly prohibited. For the purpose of this Subsection, the

definitions of the above-mentioned vehicles shall be as set forth in Chapter 340 of the Vehicle Code of the Wisconsin State Statutes. Such repairing is deemed a public nuisance. It is immaterial for the purpose of this Subsection whether or not such repairing is done in return for remuneration.

(53) Hotel. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.

(54) Loading Area. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

(55) Lodging House. A building where lodging only is provided for compensation for not more than three (3) persons not members of the family.

(56) Lot. A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located.

(57) Lot, Corner. A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five degrees (135^{O}) or less, measured on the lot side.

(58) Lot, Interior. A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.

(59) Lot, Through. A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

(60) Lot, Substandard. A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas or other open space provisions of this Code as pertaining to the district wherein located.

(61) Lot Coverage (residential). The area of a lot occupied by the principal building or buildings and accessory building.

(62) Lot Coverage (except residential). The area of a lot occupied by the principal building or buildings and accessory buildings including any driveways, parking areas, loading areas, storage areas and walkways.

(63) Lot Line. A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way line.

(64) Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

(65) Lot Width. The horizontal distance between the side lot lines measured at the building setback line.

(66) Minor Structures. Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four (4) feet in height.

(67) Mobile Home. A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis

and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.

(68) Mobile Home Lot. A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

(69) Mobile Home Park. A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.

(70) Mobile Home Subdivision. A land subdivision, as defined by Chapter 236 of the Wisconsin Statutes and any City Land Division Ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.

(71) Modular Unit. A modular unit is a factor fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational or industrial purposes.

(72) Nonconforming Uses. Any structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Code or amendments thereto and which is not in conformance with this Code. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming use, but shall be considered nonconforming with respect to those characteristics.

(73) Official Letter of Map Amendment. Official notification from the Federal Emergency Management Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

(74) Parking Lot. A structure or premises containing five (5) or more parking spaces open to the public.

(75) Parking Space. A graded and surfaced area of not less than one hundred eighty (180) square feet in area, either enclosed or open, for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

(76) Parties in Interest. Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.

(77) Professional Office. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, engineer, lawyer, author, musician or other recognized trade. When established in a residential district, a professional office shall be incidental to the residential occupation, not more than twenty-five percent (25%) of the floor area of one (1) story of a dwelling unit shall be occupied by such office and only one (1) unlighted nameplate, not exceeding one (1) square foot in area, containing the name and profession of the occupant of the premises shall be exhibited.

(78) Public Airport. Any airport which complies with the definition contained in Section 114.013(3), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.

(79) Rear Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one (1) of the street yards on a corner lot.

(80) Regional Flood. This regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every one hundred (100) years; this means that in any given year, there is a one percent (1%) chance that the regional flood may occur or be exceeded. During a typical thirty (30) year mortgage period, the regional flood has a twenty-six percent (26%) chance of occurrence.

(81) Retail. The sale of goods or merchandise in small quantities to the consumer.

(82) Setback. The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed twenty-four (24) inches. any overhang of the cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback.

(83) Side Yard. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

(84) Signs. Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.

(85) Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.

(86) Story, Half. That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one (1) family dwellings, two (2) family dwellings and multi-family dwellings less than three (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.

(87) Street. Property other than an alley or private thoroughfare or travelway which is subject to public easement or right-of-way for use as a thoroughfare and which is twenty-one (21) feet or more in width.

(88) Street Yard. A yard extending across the full width of the lot, the depot of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) street yards.

(89) Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

(90) Structural Alterations. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

(91) Temporary Structure. A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.

(92) Use. The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.

(93) Use, Accessory. A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.

(94) Use, Principal. The main use of land or building as distinguished from subordinate or accessory use.

(95) Utilities. Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.

(96) Vision Clearance. An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

(97) Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot.

(98) Zero Lot Line. The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.

(99) Zoning Permit. A permit issued by the Zoning Administrator to certify that the use of lands, structures, air and waters subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.

SEC. 13-1-195 THROUGH SEC. 13-1-199 RESERVED FOR FUTURE USE.

ARTICLE P

Definitions

SEC. 13-1-200 DEFINITIONS.

(a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.

(1) Abutting. Have a common property line or district line.

(2) Accessory Use or Structure. A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.

(3) Acre, Net. The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.

(4) Alley. A public way not more than twenty-one (21) feet wide which affords only a secondary means of access to abutting property.

(5) Apartment. A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

(6) Arterial Street. A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.

(7) A Zones. Areas of potential flooding shown on the City's "Flood Insurance Rate Map" which would be inundated by the regional flood as defined herein. These zones may be numbered as A0, A1 to A99, or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

(8) Basement. That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-around living accommodations. Space partly below grade which is designed and finished as habitable space is not defined as basement space.

(9) Block. A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.

(10) Boarding House. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for three (3) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

(11) Buildable Lot Area. The portion of a lot remaining after required yards have been provided.

(12) Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

(13) Building, Detached. A building surrounded by open space on the same lot.

(14) Building, Heights of. The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.

(15) Building Setback Line. A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Code.

(16) Building, Principal. A building in which the principal use of the lot on which it is located is conducted.

(17) Business. An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.

(18) Channel. Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.

(19) Community Living Arrangement. The following facilities licensed or operated or permitted under the authority of the Wisconsin State Statutes: Child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(7m) and community-based residential facilities under Section 50.01, but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wisconsin State Statutes, including Sections 46.03(22), 69.97(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

(20) Conditional Uses. Uses of a special nature as to make impractical their predetermination as a principal use in a district.

(21) Controlled Access Arterial Street. The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.

(22) Corner Lot. On corner lots, the setback shall be measured from the street line on which the lot fronts. The setback from the side street shall be equal to seventy-five percent (75%) of the setback required on residences fronting on the side street -- but the side yard setback shall in no case restrict the buildable width to less than thirty (30) feet. Said corner lots shall be consisting of a parcel of property abutting on two (2) or more streets at their intersection providing that the interior angle of such intersection is less than one hundred thirty-five degrees (135^{o}).

(23) Conservation Standards. Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide, prepared by the USDA Soil Conservation Service for Iron County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.

(24) Development. Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.

(25) District, Basic. A part or parts of the City for which the regulations of this Chapter governing the use and location of land and building are uniform.

(26) District, Overlay. Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

(27) Dwelling. A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

(28) Dwelling Unit. A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.

(29) Dwelling, Efficiency. A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

(30) Dwelling, Single-Family. A detached building designed for or occupied by one (1) family.

(31) Dwelling, Two-Family. A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.

(32) Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.

(33) Equal Degree of Hydraulic Encroachment. The effect of any encroachment into the floodway is to be computed by assuming an equal degree of hydraulic encroachment on the opposite side of a river or stream for a significant hydraulic reach, in order to compute the effect of the encroachment upon hydraulic conveyance. This computation assures that the property owners up, down or across the river or stream will have the same rights of hydraulic encroachment.

(34) Essential Services. Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

(35) Family. One (1) or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family. A family may include in addition thereto two (2) but not more than two (2) persons not related by blood, marriage or adoption. A person shall be considered to be related for the purpose of this Section if he is dwelling for the purpose of adoption or for a foster care program.

Exceptions: Nothing in this Chapter shall prohibit, under the definition of "Family," priests, laybrothers, nurses or such other collective body of persons living together in one (1) house under the same management and care, subsisting in common, and directing their attention to a common object or the promotion of their mutual interest and social happiness as set forth by the Wisconsin Supreme Court in Missionaries of Our Lady of LaSallette vs. City of Whitefish Bay Board of Zoning Appeals, 267 Wis. 609, which is hereby incorporated by reference.

(36) Farmstead. A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.

(37) Flood. A temporary rise in streamflow or stage in lake level that results in water overtopping the banks and inundating the areas adjacent to the steam channel or lake bed.

(38) Flood Insurance Study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mud flow) and/or floor-related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either numbered or unnumbered A Zones.

(39) Flood Profile. A graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.

(40) Flood Protection Elevation. A point two (2) feet above the water surface elevation of the 100-year recurrence interval flood. This safety factor, also called "freeboard," is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action and obstructions of bridge openings.

(41) Flood Stage. The elevation of the floodwater surface above an officially established datum plane, which is Mean Sea Level, 1929 Adjustment, on the Supplementary Floodland Zoning Map.

(42) Floodlands. For the purpose of this Code, the floodlands are all lands contained in the "regional flood" or 100-year recurrence interval flood. For the purpose of zoning regulation, the floodlands are divided into the floodway district, the floodplain conservancy district and the floodplain fringe overlay district.

(43) Floodplain Fringe. Those floodlands, outside the floodway, subject to inundation by the 100-year recurrence interval flood. For the purpose of this Code, the floodplain fringe includes the floodplain conservancy district and the floodplain fringe overlay district.

(44) Floodproofing. Measures designed to prevent and reduce flood damage for those uses which cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from structural modifications through installation of special equipment or materials, to operation and management safeguards, such as the following: reinforcing the basement walls; underpinning of floors; permanent sealing of all exterior openings; use of masonry construction; erection of permanent watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of seal-tight windows and doors; installation of wire reinforced glass; location and elevation of valuable items; waterproofing, disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable areas; temporary removal of waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valve; placement of plugs and food drain pipes; placement of movable watertight bulkheads; erection of sand bag levees; and the shoring of weak walls or structures. Floodproofing of structures shall be extended at least to a point two (2) feet above the elevation of the regional flood. Any structure that is located entirely or partially below the flood protection elevation shall be anchored to protect it from larger floods.

(45) Floodway. A designated portion of the 100-year flood area that will safely convey the regulatory flood discharge with small, acceptable upstream and

downstream stage increases, limited in Wisconsin to 0.1 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.

(46) Floor Area -- Business and Manufacturing Buildings. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

(47) Foster Family Home. The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of the Wisconsin State Statutes and amendments thereto.

(48) Frontage. All the property butting on one (1) side of a street between two (2) intersecting streets or all of the property abutting on one (1) side of a street between an intersecting street and the dead end of a street.

(49) Garage -- Private. A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.

(50) Garage -- Public. Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.

(51) Group Foster Home. Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.

(52) Home Occupation. Any business or profession carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building or accessory building thereto, in connection with which there are no signs or exterior display or storage other than a sign permitted by this Chapter, and no activity that will indicate from the exterior that the building(s) is being used in whole or in part for any purpose other than that of a dwelling. The use is to be clearly incidental to the use of the dwelling unit for residential purposes and shall not endanger the public health or safety. No articles shall be sold or offered for sale on the premises except such as is produced by the occupation on the premises, and no mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use. Persons operating a home occupation shall employ no more than one (1) nonresident employee. No business such as a shop, store or child nursery shall be conducted upon the premises. No material or equipment shall be stored outside the confines of the home. No mechanical equipment may be used which creates a disturbance such as noise, dust, odor or electrical disturbance. The home may not be altered to attract business. No motors shall be utilized which exceed one (1) horse power each and not exceeding five (5) horsepower in total, such activity being deemed a public nuisance. Repairing of motor bicycles, motorcycles and motor driven cycles, other than those licensed and owned by the occupants of a home in a residential area is strictly prohibited. For the purpose of this Subsection, the

definitions of the above-mentioned vehicles shall be as set forth in Chapter 340 of the Vehicle Code of the Wisconsin State Statutes. Such repairing is deemed a public nuisance. It is immaterial for the purpose of this Subsection whether or not such repairing is done in return for remuneration.

(53) Hotel. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.

(54) Loading Area. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

(55) Lodging House. A building where lodging only is provided for compensation for not more than three (3) persons not members of the family.

(56) Lot. A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located.

(57) Lot, Corner. A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five degrees (135^{o}) or less, measured on the lot side.

(58) Lot, Interior. A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.

(59) Lot, Through. A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

(60) Lot, Substandard. A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas or other open space provisions of this Code as pertaining to the district wherein located.

(61) Lot Coverage (residential). The area of a lot occupied by the principal building or buildings and accessory building.

(62) Lot Coverage (except residential). The area of a lot occupied by the principal building or buildings and accessory buildings including any driveways, parking areas, loading areas, storage areas and walkways.

(63) Lot Line. A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way line.

(64) Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

(65) Lot Width. The horizontal distance between the side lot lines measured at the building setback line.

(66) Minor Structures. Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four (4) feet in height.

(67) Mobile Home. A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis

and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.

(68) Mobile Home Lot. A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

(69) Mobile Home Park. A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.

(70) Mobile Home Subdivision. A land subdivision, as defined by Chapter 236 of the Wisconsin Statutes and any City Land Division Ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.

(71) Modular Unit. A modular unit is a factor fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational or industrial purposes.

(72) Nonconforming Uses. Any structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Code or amendments thereto and which is not in conformance with this Code. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming use, but shall be considered nonconforming with respect to those characteristics.

(73) Official Letter of Map Amendment. Official notification from the Federal Emergency Management Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

(74) Parking Lot. A structure or premises containing five (5) or more parking spaces open to the public.

(75) Parking Space. A graded and surfaced area of not less than one hundred eighty (180) square feet in area, either enclosed or open, for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

(76) Parties in Interest. Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.

(77) Professional Office. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, engineer, lawyer, author, musician or other recognized trade. When established in a residential district, a professional office shall be incidental to the residential occupation, not more than twenty-five percent (25%) of the floor area of one (1) story of a dwelling unit shall be occupied by such office and only one (1) unlighted nameplate, not exceeding one (1) square foot in area, containing the name and profession of the occupant of the premises shall be exhibited.

(78) Public Airport. Any airport which complies with the definition contained in Section 114.013(3), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.

(79) Rear Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one (1) of the street yards on a corner lot.

(80) Regional Flood. This regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every one hundred (100) years; this means that in any given year, there is a one percent (1%) chance that the regional flood may occur or be exceeded. During a typical thirty (30) year mortgage period, the regional flood has a twenty-six percent (26%) chance of occurrence.

(81) Retail. The sale of goods or merchandise in small quantities to the consumer.

(82) Setback. The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed twenty-four (24) inches. any overhang of the cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback.

(83) Side Yard. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

(84) Signs. Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.

(85) Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.

(86) Story, Half. That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one (1) family dwellings, two (2) family dwellings and multi-family dwellings less than three (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.

(87) Street. Property other than an alley or private thoroughfare or travelway which is subject to public easement or right-of-way for use as a thoroughfare and which is twenty-one (21) feet or more in width.

(88) Street Yard. A yard extending across the full width of the lot, the depot of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) street yards.

(89) Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

(90) Structural Alterations. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

(91) Temporary Structure. A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.

(92) Use. The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.

(93) Use, Accessory. A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.

(94) Use, Principal. The main use of land or building as distinguished from subordinate or accessory use.

(95) Utilities. Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.

(96) Vision Clearance. An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

(97) Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot.

(98) Zero Lot Line. The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.

(99) Zoning Permit. A permit issued by the Zoning Administrator to certify that the use of lands, structures, air and waters subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.

CHAPTER 2

Shoreland-Wetland Zoning

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ARTICLE A

Statutory Authorization, Findings of Fact, Statement of Purpose and Title

SEC. 13-2-1 STATUTORY AUTHORIZATION.

This Chapter is adopted pursuant to the authorization in Sections 62.23, 62.231, 87.30 and 144.26, Wis. Stats.

SEC. 13-2-2 FINDINGS OF FACT.

(a) **Findings of Fact.** Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the City of Montreal would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty.

(b) **Purpose.** To promote the public health, safety, convenience and general welfare, this Chapter has been established to:

(1) Further the maintenance of safe and healthful conditions;

(2) Prevent and control water pollution by filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters and to maintain storm and flood water capacity;

(3) Protect fish spawning grounds, fish, aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat;

(4) Prohibit certain uses detrimental to the shoreland-wetland area; and

(5) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

SEC. 13-2-3 TITLE OF CHAPTER.

Shoreland-Wetland Zoning Ordinance/Chapter for the City of Montreal, Wisconsin.

SEC. 13-2-4 THROUGH SEC. 13-2-9 RESERVED FOR FUTURE USE.

ARTICLE B

General Provisions

SEC. 13-2-10 COMPLIANCE.

The use of wetlands and the alteration of wetlands within the shoreland area of the City of Montreal shall be in full compliance with the terms of this Chapter and other applicable local, state or federal regulations. (However, see Section 13-2-25 of this Chapter for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

SEC. 13-2-11 MUNICIPALITIES AND STATE AGENCIES REGULATED.

Unless specifically exempted by law, all cities, villages, town and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Section 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Section 30.12(4)(a), Wis. Stats., applies.

SEC. 13-2-12 ABROGATION AND GREATER RESTRICTIONS.

(a) This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Section 62.23 or 87.30, Wis. Stats., which relate to shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

SEC. 13-2-13 INTERPRETATION.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 117, Wis. Adm. Code, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 117 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

SEC. 13-2-14 SEVERABILITY.

Should any portion of this Chapter be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

SEC. 13-2-15 ANNEXED AREAS.

The Iron County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's official zoning map. The Iron County shoreland zoning provisions are incorporated by reference for the purpose of administering this Section and are on file in the office of the municipal zoning administrator.

SEC. 13-2-16 THROUGH SEC. 13-2-19 RESERVED FOR FUTURE USE.

ARTICLE C

Shoreland-Wetland Zoning District

SEC. 13-2-20 PURPOSE OF SHORELAND-WETLAND ZONING.

This Chapter is adopted to maintain safe and healthful conditions, to prevent and control water pollution, to protect fish spawning grounds, fish and aquatic life and wildlife habitation, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner which minimizes adverse impacts upon the wetland.

SEC. 13-2-21 OFFICIAL SHORELAND-WETLAND ZONING MAPS.

The following maps are hereby adopted and made a part of this Chapter and are on file in the office of the Clerk-Treasurer:

(a) Wisconsin Wetland Inventory maps stamped "FINAL" on February 10, 1988.
(b) Floodplain zoning maps titled "Flood Insurance Rate Map," dated November 4, 1988.
(c) United States Geological Survey maps dated 1956 and 1975.
(d) Zoning maps titled "Montreal Zoning Map" dated September 13, 1982.

SEC. 13-2-22 DISTRICT BOUNDARIES.

(a) The shoreland-wetland zoning district includes all wetlands in the City of Montreal, Wisconsin, which are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-2-21 and which are:
    (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the City of Montreal shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-21 of this Chapter.
    (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-2-21. Flood Hazard Boundary Maps, Flood Insurance Rate Maps, Flood Boundary-Floodway Maps, County Soil Survey Maps or other existing community floodplain zoning maps used to delineate floodplain area which have been adopted by the City of Montreal shall be used to determine the extent of floodplain areas in the City.
(b) Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high-water mark.

(c) When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official shoreland-wetland zoning maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official shoreland-wetland zoning maps, the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

SEC. 13-2-23 PERMITTED USES.

The following uses are permitted subject to the provisions of Chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

(a) Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
  (1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
  (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
  (3) The practice of silviculture, including the planting, thinning and harvesting of timber;
  (4) The pasturing of livestock;
  (5) The cultivation of agricultural crops; and
  (6) The construction and maintenance of duck blinds.

(b) Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
  (1) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
  (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
  (3) The maintenance and repair of existing drainage ditches, where permissible under Section 30.20, Wis. Stats., or of other existing drainage systems (such as tiling) to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Chapter 30, Wis. Stats., and that dredged spoil is placed on existing spoil banks where possible;
  (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
  (5) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
  (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed in Section 13-2-38(c) of this Chapter; and

(7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(c) Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below:

(1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted in this Section, provided that:

a. The road cannot, as a practical matter, be located outside the wetland;

b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-2-38(c) of this Chapter;

c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;

d. Road construction activities are carried out in the immediate area of the roadbed only; and

e. Any wetland alteration must be necessary for the construction or maintenance of the road.

(2) The construction and maintenance of nonresidential buildings provided that:

a. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;

b. The building cannot, as a practical matter, be located outside the wetland;

c. The building does not exceed five hundred (500) square feet in floor area; and

d. Only limited filling and excavating necessary to provide structural support for the building is allowed.

(3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

a. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;

b. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;

c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) of this Section; and

d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

(4) The construction and maintenance of electric and telephone transmission lines and water, gas and sewer distribution lines, and related facilities provided that:

a. The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the wetland;

b. Only limited filling or excavating necessary for such construction or maintenance is allowed; and

c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-2-38(c) of this Chapter.

(5) The construction and maintenance of railroad lines, provided that:
   a. The railroad lines cannot, as a practical matter, be located outside the wetland;
   b. Only limited wetland alteration necessary for such construction or maintenance is allowed; and
   c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland as listed in Section 13-2-38 of this Chapter.

SEC. 13-2-24 PROHIBITED USES.

(a) Any use not listed in Section 13-2-23 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-2-38 of this Chapter.
(b) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

SEC. 13-2-25 NONCONFORMING STRUCTURES AND USES.

The existing lawful use of a structure, building or property, or its accessory use, which is not in conformity with the provisions of this Chapter may be continued subject to the following conditions:

(a) Notwithstanding Section 62.23(7)(h), Wis. Stats., the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure in existence at the time of adoption or subsequent amendment of this Chapter adopted under Section 62.231, Wis. Stats., or of an environmental control facility in existence on May 7, 1982, related to that structure, is permitted under Section 62.231(5), Wis. Stats. Section 62.23(7)(h), Wis. Stats., applies to any environmental control facility that was not in existence on May 7, 1982, but was in existence on the effective date of this Chapter or amendment.
(b) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this Chapter.
(c) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Chapter adopted under Sections 62.231 or 61.351, Wis. Stats., may be continued although such use does not conform with the provisions of this Chapter. However, such nonconforming use may not be extended.
(d) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Section 30.121, Wis. Stats.
(e) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

SEC. 13-2-26 THROUGH SEC. 13-2-29 RESERVED FOR FUTURE USE.

ARTICLE D

Administrative Provisions

SEC. 13-2-30 ZONING ADMINISTRATOR.

The Zoning Administrator shall have the following duties and powers:

(a) Advise applications as to the provisions of this Chapter and assist them in preparing permit applications and appeal forms.

(b) Issue permits and certificates of compliance and inspect properties for compliance with this Chapter.

(c) Keep records of all permits issued, inspections made, work approved and other official actions.

(d) Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.

(e) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation and map or text amendments within ten (10) days after they are granted or denied to the appropriate district office of the Department.

(f) Investigate and report violations of this Chapter to the appropriate City planning agency and the District Attorney, corporation counsel or City Attorney.

SEC. 13-2-31 ZONING PERMITS.

(a) **When Required.** 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 Section 13-2-41(b)(4) of this Chapter, or any change in the use of an existing building or structure is initiated.

(b) **Application.** An application for a 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:

(1) General Information.

a. Name, address and telephone number of applicant, property owner and contractor, where applicable.

b. Legal description of the property and a general description of the proposed use or development.

c. Whether or not a private water or sewage system is to be installed.

(2) Site Development Plan. The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:

a. Dimensions and area of the lot;

b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;

c. Location of any existing or proposed on-site sewage systems or private water supply systems;

d. Location of the ordinary high-water mark of any abutting navigable waterways;

e. Location and landward limit of all wetlands;

f. Existing and proposed topographic and drainage features and vegetative cover;

g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
h. Location of existing or future access roads; and
i. Specifications and dimensions for areas of proposed wetland alteration.

(c) **Expiration.** All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.

SEC. 13-2-32 CERTIFICATES OF COMPLIANCE.

(a) Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator subject to the following provisions:
   (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this Chapter.
   (2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
   (3) The certificate of compliance shall be issued within ten (10) days after the completion of the work specified in the zoning or conditional use permit, providing the building or premises or proposed use thereof conforms with all the provisions of this Chapter.

(b) The Zoning Administrator may issue a temporary certificate of compliance for a building, premises or part thereof, pursuant to rules and regulations established therefor by the Common Council.

(c) Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.

SEC. 13-2-33 CONDITIONAL USE PERMITS FOR WETLAND AREAS.

(a) **Application.** Any use listed as a conditional use in this Chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Board of Appeals, following the procedures in Sections 13-2-37(c), (d) and (e) for hearing and deciding appeals.

(b) **Conditions.** Upon consideration of the permit application and the standards applicable to the permitted uses in Section 13-2-23(c) of the Chapter, the Board of Appeals shall attach such conditions to a conditional use permit in addition to those required elsewhere in this Chapter, as are necessary to further the purposes of this Chapter as listed in Section 13-2-2 of this Chapter. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion potential; increased side yard setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information

required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this Chapter.

SEC. 13-2-34 FEES.

The Common Council may, by resolution, adopt fees for the following:
(a) Zoning permits.
(b) Certificates of compliance.
(c) Public hearings.
(d) Legal notice publications.
(e) Conditional use permits.
(f) Rezoning petitions.

SEC. 13-2-35 RECORDING.

Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.

SEC. 13-2-36 REVOCATION.

Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Board of Appeals.

SEC. 13-2-37 BOARD OF APPEALS.

(a) **Appointment.** The Mayor shall appoint a Board of Appeals under Title 2, Chapter 4 of this Code of Ordinances and Section 62.23(7)(e), Wis. Stats., consisting of five (5) members subject to confirmation by the Common Council. The Board of Appeals shall adopt rules for the conduct of the business of the Board of Appeals as required by Section 62.23(7)(e)3, Wis. Stats.
(b) **Powers and Duties.** The Board of Appeals shall:
  (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
  (2) Hear and decide applications for conditional use permits under this Chapter.
  (3) May authorize, upon appeal in specific cases, such variance from the terms of the Chapter as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of this Chapter will result in unnecessary hardship. In the issuance of a variance, the spirit of the Chapter shall be observed and substantial justice done. No variance from the terms of this Chapter shall be granted which is contrary to the public interest. A variance may be granted where, owing to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. The granting of a variance shall not have the effect of granting or extending any use of property which is prohibited in that zoning district by this Chapter.
(c) **Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken

within a reasonable time, as provided by the rules of the Board, by filing with the official from whom the appeal is taken and with the Board of Appeals, a notice of appeal specifying the reasons therefor. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board all the papers constituting the record on which the appeal action was taken.

(d) **Public Hearings.**
   (1) Before making a decision on an appeal, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.
   (2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten (10) days prior to all public hearings on issues involving shoreland-wetland zoning.

(e) **Decisions.**
   (1) The final disposition of an appeal, or application for a conditional use permit, to the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or persecution, or grant the application for a conditional use.
   (2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within ten (10) days after the decision is issued.

SEC. 13-2-38 AMENDING SHORELAND-WETLAND ZONING REGULATIONS.

The Common Council may, from time to time, alter, supplement or change the district boundaries and the regulations contained in this Chapter in accordance with the requirements of Section 62.23(7)(d)2, Wis. Stats., NR 117, Wis. Adm. Code, and the following:

(a) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the City planning agency.

(b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the City Plan Commission, and a public hearing shall be held as required by Section 62.23(7)(d)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least ten (10) days prior to such hearing.

(c) In order to insure that the shoreland protection objectives in Section 144.26, Wis. Stats., will be accomplished by the amendment, the Common Council may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
   (1) Storm and flood water storage capacity;
   (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
   (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

(4) Shoreline protection against soil erosion;
(5) Fish spawning, breeding, nursery or feeding grounds;
(6) Wildlife habitat; or
(7) Areas of special recreational scenic or scientific interest, including scarce wetland types and habitat of endangered species.

(d) Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, the Department shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment.

(e) The appropriate district office of the Department shall be provided with:
(1) A copy of the recommendations and report, if any, of the City Plan Commission on the proposed text or map amendment within ten (10) days after the submission of those recommendations to the Common Council; and
(2) Written notice of the Common Council's action on the proposed text or map amendment within ten (10) days after the action is taken.

(f) If the Department notifies the City Plan Commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, that proposed amendment, if approved by the Common Council, may not become effective until more than thirty (30) days have elapsed since written notice of the Common Council approval was mailed to the Department, as required by Subsection (e) of this Section. If, within the thirty (30) day period, the Department notifies the Common Council that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the City under Section 62.231(6), Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under Section 62.231(6), Wis. Stats., is completed or otherwise terminated.

SEC. 13-2-39 RESERVED FOR FUTURE USE.

ARTICLE E

Penalties; Definitions

SEC. 13-2-40 ENFORCEMENT AND PENALTIES.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this Chapter in violation of the provisions of this Chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Common Council and the City Attorney who shall prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture as specified in Sec. 1-1-7, "General Penalties," of this Code of Ordinances, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the City, the State or any citizen thereof pursuant to Section 87.30(2), Wis. Stats.

SEC. 13-2-41 DEFINITIONS.

(a) For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

(b) The following terms used in this Chapter mean:

(1) Accessory Structure or Use. A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

(2) Boathouse. As defined in Section 30.121(1), Wis. Stats., a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.

(3) Department. The Wisconsin Department of Natural Resources.

(4) Development. Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

(5) Drainage System. One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

(6) Environmental Control Facility. Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid

waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

(7) Fixed Houseboat. As defined in Section 30.121(1), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

(8) Navigable Waters. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under Section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Section 62.231, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
   a. Such lands are not adjacent to a natural navigable stream or river;
   b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
   c. Such lands are maintained in nonstructural agricultural use.

(9) Ordinary High-Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic.

(10) Planning Agency. The City Plan Commission created under Section 62.23(1), Wis. Stats.

(11) Regional Flood. A flood determined to be representative or large floods known to have generally occurred in Wisconsin and which may be expected to occur or be exceeded on a particular stream because of like physical characteristics, once in every one hundred (100) years.

(12) Shorelands. Lands within the following distances from the ordinary high-water mark of navigable waters; one thousand (1,000) feet from a lake, pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(13) Shoreland-Wetland District. The zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13-2-11 of this Chapter.

(14) Special Exception or Conditional Use. A use which is permitted by this Ordinance provided that certain conditions specified in the Chapter are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the Common Council.

(15) Unnecessary Hardship. That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.

(16) Variance. An authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Chapter.

(17) Wetlands. Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

(18) Wetland Alteration. Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

CHAPTER 3

Floodplain Zoning

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waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

(7) Fixed Houseboat. As defined in Section 30.121(1), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

(8) Navigable Waters. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under Section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Section 62.231, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
   a. Such lands are not adjacent to a natural navigable stream or river;
   b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
   c. Such lands are maintained in nonstructural agricultural use.

(9) Ordinary High-Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic.

(10) Planning Agency. The City Plan Commission created under Section 62.23(1), Wis. Stats.

(11) Regional Flood. A flood determined to be representative or large floods known to have generally occurred in Wisconsin and which may be expected to occur or be exceeded on a particular stream because of like physical characteristics, once in every one hundred (100) years.

(12) Shorelands. Lands within the following distances from the ordinary high-water mark of navigable waters; one thousand (1,000) feet from a lake, pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(13) Shoreland-Wetland District. The zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13-2-11 of this Chapter.

(14) Special Exception or Conditional Use. A use which is permitted by this Ordinance provided that certain conditions specified in the Chapter are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the Common Council.

(15) Unnecessary Hardship. That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.

(16) Variance. An authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Chapter.

ARTICLE A

Introduction

SEC. 13-3-1 STATUTORY AUTHORIZATION.

This Chapter for floodplain protection is adopted pursuant to the authorization contained in Sections 61.35, 62.23 and 87.30, Wis. Stats.

SEC. 13-3-2 FINDING OF FACT.

The uncontrolled development and use of the floodplains, rivers or streams of the City of Montreal, Wisconsin, would adversely affect the public health, safety, convenience and general welfare and impairs its tax base.

SEC. 13-3-3 STATEMENT OF PURPOSE.

The purpose of this Chapter is to provide a uniform basis for the preparation, implementation and administration of sound floodplain regulations for all floodplains within the City of Montreal to:

(a) Protect life, health and property;
(b) Minimize expenditures of public moneys for costly flood control projects;
(c) Minimize rescue and relief efforts, generally undertaken at the expense of the general public;
(d) Minimize business interruptions which usually result in the loss of local incomes;
(e) Minimize damage to public facilities on the floodplains such as water mains, sewer lines, streets and bridges;
(f) Minimize the occurrence of future flood blight areas on floodplains;
(g) Discourage the victimization of unwary land and home buyers; and
(h) Prevent increases in regional flood heights that could increase flood damage and may result in conflicts or litigation between property owners.

SEC. 13-3-4 TITLE.

This Chapter shall be known as the Floodplain Zoning Ordinance for the City of Montreal, Wisconsin.

SEC. 13-3-5 THROUGH SEC. 13-3-9 RESERVED FOR FUTURE USE.

ARTICLE B

General Provisions

SEC. 13-3-10 AREAS TO BE REGULATED.

Areas regulated by this Chapter include all lands within the corporate limits of the City of Montreal that would be inundated by the "regional flood" defined in the Definitions, Section 13-3-90(a) of this Chapter, and include "floodplain islands" where emergency rescue and relief routes would be inundated by the regional flood.

SEC. 13-3-11 DISTRICT BOUNDARIES.

(a) **District Boundary.**
   (1) The boundary of the flood plain districts and where shown, the floodway and floodfringe districts shall be those areas designated as A-Zones on the Flood Insurance Rate Map, with corresponding profiles in the Flood Insurance Study, dated November 4, 1988.
   (2) The Flood Insurance Study and Map dated November 4, 1988, is the official Flood Plain Zoning Maps for the community. All have been approved by the Department of Natural Resources and the Federal Insurance Administration Office (FIAO) of the Federal Emergency Management Agency (FEMA) and are on file in the office of the City Clerk-Treasurer. If more than one (1) map is referenced, the regional flood profiles govern boundary discrepancies according to Section 13-3-12 below.

(b) **Districts.** The regional floodplain areas within the jurisdiction of this Chapter are hereby divided into three districts: the Floodway District (FW), Flood Fringe District (FF) and General Floodplain District (GFP), defined as follows:
   (1) The Floodway District (FW) consists of the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the regional flood waters.
   (2) The Flood Fringe District (FF) consists of that portion of the floodplain between the regional flood limits and the floodway.
   (3) The General Floodplain District (GFP) consists of all areas which have been or may be hereafter covered by flood water during the regional flood. It encompasses both the Floodway and Flood Fringe Districts.

SEC. 13-3-12 LOCATING FLOODPLAIN BOUNDARIES.

(a) Where an apparent discrepancy exists between the location of the outermost boundary of the Flood Fringe District or General Floodplain District shown on the official floodplain zoning map and actual field conditions, the location of the district boundary line shall be initially determined by the Zoning Administrator using the criteria set forth in Subsections (b) or (c) below. Where the Zoning Administrator finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in Article H. Disputes between the Zoning Administrator and an applicant on the location of the district boundary line shall be settled according to Section 13-3-63.

(b) Where flood profiles exist, the location of the district boundary line shall be determined by the Zoning Administrator using both the scale appearing on the

map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map and the location indicated by the regional flood elevations and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the map and actual field conditions. The Zoning Administrator shall have the authority to immediately grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The Zoning Administrator shall be responsible for initiating any map amendments required under this Section within a reasonable period of time.

(c) Where flood profiles do not exist, the location of the district boundary line shall be determined by the Zoning Administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Department. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both the Common Council and the Department, the Zoning Administrator shall have the authority to grant or deny a land use permit.

SEC. 13-3-13 REMOVAL OF LANDS FROM FLOODPLAIN.

Compliance with the provisions of this Chapter shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two (2) feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district and the map is amended pursuant to Article H. To remove the land from flood insurance requirements, FEMA must first revise the flood insurance rate map or issue a letter of map amendment or revision.

SEC. 13-3-14 COMPLIANCE WITH CHAPTER.

(a) **Compliance.** The use or development, as defined in Section 13-3-90(a), or use within the areas to be regulated by this Chapter shall be in compliance with the terms of this Chapter and other applicable local, state and federal regulations.

(b) **Municipalities and State Agencies Regulated.** Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Sec. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Sec. 30.12(4)(a), Wis. Stats., applies.

SEC. 13-3-15 ABROGATION AND GREATER RESTRICTIONS; INTERPRETATION OF CHAPTER.

(a) **Greater Restrictions.** This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Sections 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) **Abrogation.** This Chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

(c) **Interpretation.** In their interpretation and application, the provisions of this Chapter shall be held to minimum requirements liberally construed in favor of the governing body and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 116, Wisconsin Administrative Code, and where the meaning of the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 116 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

SEC. 13-3-16 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection intended to be provided by this Chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain will be totally free from flooding and associated flood damages. Nor does this Chapter create a liability on the part of or a cause of action against the City or any officer or employee thereof for any flood damage that may result from reliance on this Chapter.

SEC. 13-3-17 SEVERABILITY.

If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

SEC. 13-3-18 ANNEXED AREAS FOR CITIES AND VILLAGES.

The Iron County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the City for all areas annexed by the City until the City adopts and enforces an ordinance which meets the requirements of Ch. NR 116, Wis. Adm. Code. These annexed lands are described on the City's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this Section and are on file in the office of the Zoning Administrator.

SEC. 13-3-19 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.

(a) **Hydraulic and Hydrologic Analyses.**

(1) No development, except as provided in Subsection (a)(2) below, shall be allowed in floodplain areas which will:

a. Cause an obstruction to flow, defined in Section 13-3-90(a) as any development which physically blocks the conveyance of floodwaters by

itself or in conjunction with future similar development causing an increase in regional flood height; or

b. Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeding 0.01 foot.

(2) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this Chapter, the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with Article H, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than 1.0 foot for the affected hydraulic reach of the stream.

(3) The Zoning Administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.01 foot or greater.

(b) **Watercourse Alterations.** Prior to any alteration of relocation of a watercourse and prior to the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the Zoning Administrator shall notify, in writing, adjacent municipalities, the appropriate district office of the Department of Natural Resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

(c) **Chapters 30, 31, Wis. Stats., Development.** Development which requires a permit from the Department of Natural Resources, under Chapters 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids may be allowed provided the necessary local permits are obtained and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning ordinance are made according to Article H.

ARTICLE C

Floodway District (FW)

SEC. 13-3-20 APPLICABILITY.

The provisions of this Article shall apply to all areas mapped as floodway on the official floodplain zoning maps, and to those portions of the General Floodplain District determined to be floodplain according to the procedures in Section 13-3-43 of this Chapter.

SEC. 13-3-21 PERMITTED USES.

The following open space uses are permitted within the Floodway District and in the floodway portion of the General Floodplain District, provided that they are not prohibited by any other ordinance and provided further that they meet all of the standards contained in Section 13-3-22, and all permits or certificates have been issued according to Article G.

(a) Agricultural uses, such as: general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
(b) Nonstructural industrial and commercial uses, such as: loading areas, parking areas and airport landing strips.
(c) Nonstructural private and public recreational uses, such as: golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails, according to Section 13-2-22(d).
(d) Uses or structures accessory to open space uses, or essential for historical areas, providing they are not in conflict with the provisions of Sections 13-3-22 and 13-3-23.
(e) Extraction of sand, gravel or other materials pursuant to Section 13-3-22(d).
(f) Functionally water-dependent uses such as docks, piers or wharves, including those used as part of a marina, and other water-related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines, according to Chapters 30 and 31, Wis. Stats.
(g) Public utilities, streets and bridges, according to Section 13-3-22(c).

SEC. 13-3-22 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS.

(a) **General Requirements.**
  (1) Any development in floodway areas shall:
    a. Meet all of the provisions of Section 13-3-18; and
    b. Have a low flood damage potential.
  (2) Applicants shall provide the following data for the Zoning Administrator to determine the effects of the proposal according to Section 13-3-18(a):
    a. A cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow; or
    b. An analysis calculating the effects of this proposal on regional flood height.

(3) The Zoning Administrator shall deny the permit application where there is determined the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for Subsection 13-3-22(a)(2) above.

(b) **Structures.** In or over floodway areas, only structures which are accessory to permanent open space uses, or are essential for historical areas, or are functionally dependent on a waterfront location, may be allowed by permit, providing the structures meet all of the following criteria:
(1) The structures are not designed for human habitation or associated with high flood-damage potential;
(2) The structures are designed and placed on the building site so as to cause an increase less than 0.01 foot in flood height and offer minimum obstruction to the flow of flood waters. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and approximately on the same line as those of adjoining structures;
(3) The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
(4) The structures have all service facilities, such as electrical and heating equipment at or above the flood protection elevation for that particular area.

(c) **Utilities.** Public utilities, streets and bridges may be allowed by permit provided that:
(1) Adequate flood-proofing measures are provided to the flood protection elevation;
(2) Construction does not cause an increase in the regional flood height according to Section 13-3-18(a), except where the water surface profiles, floodplain zoning maps and floodplain zoning ordinance are amended as needed, to reflect any changes resulted from such construction.

(d) **Fills.** Fills or deposition of materials may be allowed by permit provided that:
(1) The requirements of Section 13-3-18(a) are met;
(2) The fill or deposition of materials does not encroach on the channel area between the ordinary high-water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Chapter 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334, has been issued, if applicable, and the other requirements of this Section are met;
(3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading sufficient to prevent erosion; and provided that
(4) Such fills are not associated with private or public solid waste disposal.

SEC. 13-3-23 PROHIBITED USES.

All uses not listed as permitted uses in Section 13-3-21 are prohibited within the floodway district and in the floodway portion of the general floodplain district including the following uses which are always prohibited in the floodway:

(a) Structures in, on or over floodway areas which are designed for human habitation, associated with high flood damage potential, or not associated with permanent open-space uses;

(b) The storage of any materials that are capable of floating, flammable, explosive or injurious to property, water quality or human, animal, plant, fish or other aquatic life;
(c) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts;
(d) All private or public sewage systems, except portable latrines that are removed prior to flooding, and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Chapter ILHR 83, Wisconsin Administrative Code;
(e) All public or private wells which are used to obtain water for ultimate human consumption, except those for recreational areas that meet the requirements of local ordinances and Chapters NR 111 and NR 112, Wis. Adm. Code.
(f) All solid and hazardous waste disposal sites, whether public or private.
(g) All wastewater treatment ponds or facilities except those permitted under Sec. NR 110.15(3)(b), Wis. Adm. Code.
(h) All sanitary sewer or water lines except those to service existing or proposed development outside the floodway which complies with the regulations for the floodplain area occupied.

SEC. 13-3-24 THROUGH SEC. 13-3-29 RESERVED FOR FUTURE USE.

ARTICLE D

Flood Fringe District (FF)

SEC. 13-3-30 APPLICABILITY.

The provisions of this Article shall apply to all areas within the Flood Fringe District, as shown on the official floodplain zoning maps, and to those portions of the General Floodplain District that are determined to be in the flood fringe area pursuant to Section 13-3-64 of this Chapter.

SEC. 13-3-31 PERMITTED USES.

Any structures, land use or development, including accessory structures and uses, are allowed within the Flood Fringe District and flood fringe portions of the General Floodplain District, provided that the standards contained in Section 13-3-32 are met, that the use is not prohibited by this or any other ordinance or any other local, state or federal regulation and that all permits or certificates required by Article G have been issued.

SEC. 13-3-32 STANDARDS FOR DEVELOPMENT IN FLOOD FRINGE AREAS.

(a) **Standards.** All of the provisions of Section 13-3-18 shall apply in addition to the other requirements of this Section according to the use requested.

(b) **Residential Uses.** Any structure or building used for human habitation, which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet or exceed the following standards:

(1) The elevation of the lowest flood excluding the basement or crawlway shall be at or above the flood protection elevation (which is a point two [2] feet above the regional flood elevation) except where Subsection (2) below is applicable. The fill elevation shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. The Department may authorize other floodproofing measures where existing streets or sewer lines are at elevations which make compliance impractical provided the Board of Appeals grants a variance due to dimensional restrictions.

(2) The basement or crawlway floor may be placed at the regional flood elevation providing it is floodproofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.

(3) Contiguous dryland access, defined in Section 13-3-90, as a vehicle access route above regional flood elevation shall be provided from a structure or building to land which is outside of the floodplain, except as provided in Subsection (4).

(4) In existing developments where existing streets or sewer lines are at elevations which make compliance with Subsection (3) impractical, the City may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided:

a. The City has written assurance from the appropriate local units of police, fire and emergency services that rescue and relief will be

provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration and velocity of the regional flood event; or

b. The City has an adequate natural disaster plan concurred with the Division of Emergency Government and approved by the Department.

(c) **Accessory Structures or Uses.** An accessory structure or use (not connected to a principal structure, including nonresidential agricultural structures), shall meet all the applicable provisions of Sections 13-3-22(a), (b) and (d) and 13-3-23. A lesser degree of protection, compatible with these criteria and the criteria in Subsection (d) may be permissible for an accessory structure or use providing that the site is not inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood.

(d) **Commercial Uses.** Any commercial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet the requirements of Section 13-3-32(b) above. Storage yards, parking lots and other accessory land uses may be at lower elevations, subject to the requirements of Subsection (f). However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood. Inundation of such yards or parking areas exceeding two (2) feet may be allowed provided an adequate warning system exists to protect life and property.

(e) **Manufacturing and Industrial Uses.** Any manufacturing or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall be protected to the flood protection elevation utilizing fill, levees, floodwalls, adequate floodproofing measures in accordance with Section 13-3-65, or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in Subsections (d) and (f) may be permissible for storage yards, parking lots and accessory structures or uses.

(f) **Storage of Materials.** The storage of materials that are buoyant, flammable, explosive or which, in times of flooding, could be injurious to property, water quality or human, animal, fish, plant or aquatic life shall be at or above the flood protection elevation for the particular area or floodproofed in compliance with Section 13-3-65. Adequate measures shall be taken to assure that said materials will not enter the river or stream during flooding.

(g) **Public Utilities, Streets and Bridges.** All utilities, streets and bridges should be designed to be compatible with the local comprehensive floodplain development plans; and

(1) When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with Section 13-3-65 to the flood protection elevation;

(2) Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.

(h) **Sewage Systems.** All on-site sewage disposal systems shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Chapter ILHR 83, Wisconsin Administrative Code.

(i) **Wells.** All public or private wells shall be floodproofed to the flood protection elevation, pursuant to Section 13-3-65, and shall meet the applicable provisions of Chapters NR 111 and NR 112, Wis. Adm Code.
(j) **Solid Waste Disposal Sites.** All solid or hazardous waste disposal sites, whether public or private, are prohibited in flood fringe areas.
(k) **Deposition of Materials.** Any materials deposited for any purpose may only be allowed if all the provisions of this Chapter are met.

SEC. 13-3-33 MOBILE HOMES AND MANUFACTURED HOMES.

(a) Owners or operators of all mobile manufactured home parks and subdivisions located in the regional floodplain shall provide for adequate surface drainage to minimize flood damage.
(b) All new, replacement and substantially improved mobile manufactured homes to be placed or improved on a site located in the regional floodplain shall:
    (1) Be elevated to the flood protection elevation;
    (2) Meet the residential development standards for the floodfringe in Section 13-3-33(b).
    (3) Be anchored so they do not float, collapse or move laterally during a flood.

SEC. 13-3-34 THROUGH SEC. 13-3-39 RESERVED FOR FUTURE USE.

ARTICLE E

General Floodplain District (GFP)

SEC. 13-3-40 APPLICABILITY.

The provisions for this district shall apply to all floodplains in the City for which "regional flood" data, as defined in the Definitions, Section 13-3-90(a), is not available, or where regional flood data is available but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be placed in the Flood Fringe or Floodway District, as appropriate.

SEC. 13-3-41 PERMITTED USES.

The General Floodplain District encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to Section 13-3-43 to determine whether the proposed use is located within a floodway or flood fringe area. Those uses permitted in floodways and flood fringe areas are allowed within the general floodplain district according to the standards of Section 13-3-42 and provided that all permits or certificates required under Section 13-3-61 have been issued.

SEC. 13-3-42 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT.

Once it is determined according to Section 13-3-43 that a proposed use is located within a floodway, the provisions of Article C shall apply. Once determined that the proposed use is located within the flood fringe, the provisions of Article D shall apply. All provisions of the remainder of this Chapter apply to either district.

SEC. 13-3-43 DETERMINING FLOODWAY AND FLOOD FRINGE LIMITS.

Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:

(a) Require the applicant to submit, at the time of application, two (2) copies of an aerial photograph or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures.

(b) Require the applicant to furnish any of the following additional information as is deemed necessary by the Department for evaluation of the effects of the proposal upon flood height and flood flows, the regional flood elevation and where applicable to determine the boundaries of the floodway:

  (1) A typical valley cross-section showing the channel of the stream, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development and all historic high-water information.

  (2) Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial

arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.

(3) Profile showing the slope of the bottom of the channel or flow line of the stream.

(4) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.

(c) Transmit one (1) copy of the information described in Subsections (a) and (b) to the Department District office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of Section 13-3-61(a)(3) apply, the applicant shall provide all required information and computations, to delineate floodway boundaries and the effects of the project on flood elevations.

SEC. 13-3-44 THROUGH SEC. 13-3-49 RESERVED FOR FUTURE USE.

ARTICLE F

Nonconforming Uses

SEC. 13-3-50 GENERAL.

Insofar as the standards in this Article are not inconsistent with the provisions of Sec. 62.23(7)(h), Wis. Stats., they shall apply to all nonconforming structures and nonconforming uses. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before passage of this Chapter or any amendment thereto. The existing lawful use of a structure or building or its accessory use which is not in conformity from the provisions of this Chapter may be continued subject to the following conditions:

(a) No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this Chapter for the area of floodplain occupied. The words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered modifications or additions; these include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities.

(b) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon shall be made to conform to the applicable requirements of this Chapter.

(c) As requests are received for modifications or additions to nonconforming uses or nonconforming structures in the floodway, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value and the cost of those additions or modifications which have been permitted.

(d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 13-3-32(b)(3) or (4).

(e) If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the requirements of this Chapter. For the purpose of this Subsection, restoration is deemed impractical where the total cost of such restoration would exceed fifty percent (50%) of the present equalized assessed value of the structure.

SEC. 13-3-51 FLOODWAY AREAS.

(a) No modifications or additions shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

(1) Has been granted a permit or variance which meets the floodway requirements of this Chapter; and
(2) Meets the requirements of Section 13-3-50; and
(3) Will not increase the obstruction to flood flows or regional flood height; and
(4) Any addition to the existing structure shall be floodproofed, pursuant to Section 13-3-65, by means other than the use of fill, to the flood protection election.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable provisions of local ordinances and Chapter ILHR 83, Wis. Adm. Code.

(c) No new well or modification to an existing well used to obtain water for ultimate human consumption shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable provisions of all municipal ordinances and Chapters NR 111 and NR 112, Wis. Adm. Code.

SEC. 13-3-52 FLOOD FRINGE AREAS.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the flood fringe area unless such modification or addition has been granted a permit or variance and, in addition, the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the applicable regulations for that particular use in Section 13-3-32, except where Subsection (b) is applicable.

(b) Where compliance with the provisions of Subsection (a) above would result in unnecessary hardship and only where the structure will not be either used for human habitation or to be associated with a high flood damage potential, the Board of Appeals, using the procedure in Section 13-3-63, may grant a variance from those provisions of Subsection (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
(1) No floor is allowed below the regional flood elevation for residential or commercial structures;
(2) Human lives are not endangered;
(3) Public facilities, such as water or sewer, will not be installed;
(4) Flood depths will not exceed two (2) feet;
(5) Flood velocities will not exceed two (2) feet per second; and
(6) The structure will not be used for storage of materials described in Section 13-3-32(f).

(c) If neither the provisions of Subsections (a) nor (b) above can be met, an addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe on a one (1) time basis only, if the addition:
(1) Meets all other regulations and will not granted by permit or variance;
(2) Does not exceed existing (60) square feet in area; and
(3) In combination with other previous modifications or additions to the building, does not exceed fifty percent (50%) of the present equalized assessed value of the building.

(d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances of Chapter ILHR 83, Wis. Adm. Code.

(e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Chapter and Ch. NR 111 and NR 112, Wis. Adm. Code.

SEC. 13-3-53 THROUGH SEC. 13-3-59 RESERVED FOR FUTURE USE.

ARTICLE G

Administration

(NOTE: This Article provides for the appointment of appropriate boards and staff and the development of necessary policies and procedures to administer the floodplain zoning ordinance in accordance with this Article. Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under Section 62.23(7), Wis. Stats., these officials shall also administer the floodplain zoning ordinance.)

SEC. 13-3-60 ZONING ADMINISTRATOR.

The City Zoning Administrator is hereby authorized to administer the provisions of this Chapter. The Zoning Administrator shall have the following duties and powers:

(a) Advise applicants as to the provisions of this Chapter, assist them in preparing permit applications and appeals and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(b) Issue permits and inspect properties for compliance with this Chapter and issue Certificates of Compliance when appropriate.

(c) Keep records of all official actions such as:
   (1) All permits issued.
   (2) Inspections made.
   (3) Work approved.
   (4) Documentation of certified lowest floor and regional flood elevations for floodplain development.
   (5) Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.

(d) Submit copies of the following items to the Department district office:
   (1) Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
   (2) Copies of any case-by-case analyses and any other information required by the Department, including an annual summary of the number and types of floodplain zoning actions taken.

(e) Investigate, prepare reports and report violations of this Chapter to the appropriate City committee and to the municipal attorney for prosecution. Copies of the violation reports shall also be sent to the appropriate district office of the Department of Natural Resources.

(f) Submit copies of map and text amendments and biennial reports to the Regional Office of FEMA.

SEC. 13-3-61 ADMINISTRATIVE PROCEDURES.

(a) **Land Use Permit.** A land use permit shall be obtained from the Zoning Administrator before any new "development," as defined in Section 13-3-90(a), or any change in the use of an existing building or structure, including sewage disposal systems and water supply facilities, may be initiated. Application for a land use permit shall be made to the Zoning Administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

(1) General Information:
   a. Name and address of the applicant, property owner and contractor-builder;
   b. Legal description of the property, type of proposed use and an indication as to whether new construction or a modification to an existing structure is involved;

(2) Site Development Plan: The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
   a. Location, dimensions, area and elevation of the lot:
   b. Location of the ordinary high-water mark of any abutting navigable waterways;
   c. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
   d. Location of any existing or proposed on-site sewage systems or private water supply systems;
   e. Location and elevation of existing or future access roads;
   f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
   g. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
   h. Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of Article C or Article D of this Chapter are met.
   i. Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to Section 13-3-18(a). This may include any of the information noted in Section 13-3-22(a).

(3) Data Requirements to Analyze Developments:
   a. The applicant shall provide all computations and survey data required to show the effects of the project on flood heights, velocities and floodplain storage for all subdivision proposals, as "subdivision" is defined in Sec. 236.02(3), Wis. Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds One Hundred Twenty-Five Thousand Dollars ($125,000.00). The applicant shall provide:
      1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.
      2. A map showing location and details of vehicular access to lands outside the floodplain.
      3. A surface drainage plan with adequate details showing how flood damage will be minimized.

      The estimated cost of the proposal shall include all structural development, landscaping improvements, access and road development, electrical and plumbing and similar items reasonably applied to the overall development costs, but need not include land costs.
   b. The Department will determine elevations and evaluate the proposal where the applicant is not required to provide computations as above and inadequate data exists. The municipality may transmit additional information, such as the date in Section 13-3-43(b) where appropriate, to the Department with the request for analysis.

(4) Expiration: All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.

(b) **Certificate of Compliance.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required subject to the following provisions:
   (1) The certificate of compliance shall show that the building or premises or part thereof and the proposed use conform to the provisions of this Chapter.
   (2) Application of such certificate shall be concurrent with the application for a permit.
   (3) The certificate of compliance shall be issued within ten (10) days after notification of completion of the work specified in the permit, providing the building or premises or proposed use conforms with all the provisions of this Chapter.
   (4) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill and lowest floor elevations are in compliance with the permit issued. Floodproofing measures also require certificate by a registered architect or professional engineering that floodproofing adequacy meets the requirements of Section 13-3-65.

(c) **Other Permits.** It is the responsibility of the applicant to secure all other necessary permits from all appropriate Federal, State and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.

SEC. 13-3-62 ZONING AGENCY.

(a) The Common Council shall have the following duties and powers to:
   (1) Oversee the functions of the office of the Zoning Administrator;
   (2) Review all proposed amendments to the floodplain zoning ordinance map and text;
   (3) Maintain a complete public record of all its proceedings when acting as the zoning agency under this Chapter.

(b) The Common Council shall not grant variances to the terms of this Chapter nor amend the text or zoning maps in place of official action by the Board of Appeals.

SEC. 13-3-63 BOARD OF APPEALS.

(a) **Statutory Authorization.** The appropriate board created by Chapter 62.23(7)(e), Wis. Stats., for cities or villages is hereby authorized to act as Board of Appeals for the purposes of this Chapter. The Board of Appeals shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator may not be the Secretary of the Board.

(b) **Powers and Duties.** The Board of Appeals shall:
   (1) Appeals. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
   (2) Boundary Disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
   (3) Variances. Hear and decide, upon appeal, variances from the dimensional standards of this Chapter.

(c) **Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within thirty (30) days, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the reasons for appeal. The official whose decision is in question shall transmit to the Board all the papers constituting the record concerning the matter appealed.

(d) **Notice and Hearing for Appeals Including Variances.**

(1) Notice. The Board shall:
   a. Fix a reasonable time for the hearing;
   b. Publish adequate Class 1 notice pursuant to the Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
   c. Assure that notice shall be mailed to the parties in interest and the district office of the Department at least ten (10) days in advance of the hearing.

(2) Hearing. Any party may appear in person or by an agent or attorney. The Board shall:
   a. Resolve boundary disputes according to Subsection (d);
   b. Decide variance applications according to Subsection (e);
   c. Decide appeals of permit denials according to Section 13-3-64.

(3) Decision. The final decision regarding the appeal or variance application shall:
   a. Be made within a reasonable time;
   b. Be sent to the district office of the Department within ten (10) days of the decision;
   c. Be a written determination signed by the chairperson or secretary of the board;
   d. State the specific facts which are the basis for the Board's decision;
   e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application for a variance;
   f. Include the reasons for justifications for granting an appeal, with a description of the hardship or practical difficulty demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

(e) **Boundary Disputes.** The following procedure shall be used by the Board of Appeals in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:

(1) Where a floodplain district boundary is established by approximate or detailed floodplain studies the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the board, other available evidence may be examined.

(2) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Appeals.

(3) Where it is determined that the district boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the location of the boundary to petition the governing body for a map amendment according to Article H.

(f) **Variance.**
(1) The Board of Appeals may, upon appeal, grant a variance from the dimensional standards of this Chapter where an applicant convincingly demonstrates that:
a. Literal enforcement of the provisions of the Chapter will result in unnecessary hardship on the applicant.
b. The hardship is due to adoption of the floodplain ordinance and special conditions unique to the property, not common to a group of adjacent lots or premises (in such case the Chapter or map must be amended);
c. Such variance is not contrary to the public interest;
d. Such variance is consistent with the purpose of this Chapter.
(2) A variance shall not:
a. Grant, extend or increase any use of property prohibited in the zoning district;
b. Be granted for a hardship based solely on an economic gain or loss;
c. Be granted for a hardship which is self-created;
d. Damage the rights or property values of other persons in the area;
e. Permit a lower degree of flood protection in the floodplain than the flood protection elevation;
f. Allow any floor, basement or crawlway below the regional flood elevation;
g. Allow actions without the requirement amendment to this Chapter or map(s) described in Section 13-3-70.

(g) When a variance is granted in a floodplain area, the Board shall notify the applicant in writing that increased flood insurance premiums may result. A copy of this notification shall be maintained with the variance appeal record.

SEC. 13-3-64 REVIEW APPEALS OF PERMIT DENIALS.

(a) The Board of Appeals shall review all data constituting the basis for the appeal of permit denial. This data may include (where appropriate):
(1) Permit application data listed in Section 13-3-61(a);
(2) Floodway/flood fringe determination data in Section 13-3-43;
(3) Data listed in Section 13-3-22(a)(2)b where the applicant has not submitted this information to the Zoning Administrator.
(4) Other data submitted to the Zoning Administrator with the permit application or submitted to the Board with the appeal.

(b) For appeals of all denied permits, the Board shall:
(1) Follow the procedures of Section 13-3-63;
(2) Consider Zoning Agency recommendations;
(3) Either uphold the denial or grant the appeal.

(c) For appeals concerning increases in regional flood elevation, the Board shall:
(1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
(2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

SEC. 13-3-65 FLOODPROOFING.

(a) No permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect that the floodproofing measures are adequately designed to protect the structure or development to the flood protection elevation. Where floodproofing measures, as defined in Section 13-3-90(a) are required, they shall be designed to:
   (1) Withstand the flood pressures, depths, velocities, uplift and impact forces and other factors associated with the regional flood;
   (2) Assure protection to the flood protection elevation;
   (3) Provide anchorage of structures to foundations to resist flotation and lateral movement;
   (4) Insure that the structural walls and floors are watertight and the interior remains completely dry during flooding without human intervention.

(b) Flood measures could include:
   (1) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;
   (2) Addition of mass or weight to structures to prevent flotation;
   (3) Placement of essential utilities above the flood protection elevation;
   (4) Surface or subsurface drainage systems, including pumping facilities to relieve external foundation wall and basement floor pressures;
   (5) Construction of water supply wells and waste treatment systems to prevent the entrance of flood waters into the systems;
   (6) Cutoff valves on sewer lines or elimination of gravity flow basement drains.

SEC. 13-3-66 PUBLIC INFORMATION.

(a) Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.

(b) All available information int he form of maps, engineering data and regulations shall be readily available and should be widely distributed.

(c) All legal descriptions of property in the floodplain should include information relative to the floodplain zoning classification when such property is transferred.

SEC. 13-3-67 THROUGH SEC. 13-3-69 RESERVED FOR FUTURE USE.

ARTICLE H

Amendments

SEC. 13-3-70 AMENDMENTS GENERALLY.

The Common Council may supplement or change the boundaries of the floodplain zoning districts and the regulations contained in this Chapter in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

(a) Any change to the official floodplain zoning map including the floodway line or boundary of any floodplain area;
(b) Correction of significant discrepancies between the water surface profiles and floodplain zoning maps;
(c) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
(d) Any fill or encroachment into the floodplain that will obstruct flow causing an increase of 0.01 foot or more in regional flood height;
(e) Any upgrading of floodplain zoning ordinances required by Section NR 116.05(4), Wisconsin Administrative Code, or otherwise required by law.

SEC. 13-3-71 AMENDMENT PROCEDURES.

(a) Amendments to this Chapter may be made upon petition of any interested party in accordance with the provisions of Section 62.23, Wis. Stats. Such petitions shall include any necessary data required by Sections 13-3-43 and 13-3-61(a).
(b) Any amendment shall first receive a public hearing. Copies of the proposed amendment and notice of the public hearing shall be submitted to the appropriate District office of the Department of Natural Resources for review prior to the meeting. The amendment procedure shall comply with the provisions of Section 62.23, Wis. Stats.
(c) No amendment to the maps or text of this Chapter shall become effective until reviewed and approved by the Department of Natural Resources.
(d) All persons petitioning for a map amendment which involves an obstruction to flow causing an increase of 0.01 foot or more in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all adversely affected property owners and local units of government before the amendment can be approved by a governing body.
(e) When considering amendments to the official floodplain zoning map, in areas where no water surface profiles exist, the zoning agency shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information.

SEC. 13-3-72 THROUGH SEC. 13-3-79 RESERVED FOR FUTURE USE.

ARTICLE I

Enforcement and Penalties

SEC. 13-3-80 ENFORCEMENT AND PENALTIES.

Any violations of the provisions of this Chapter by any person, firm, association, corporation (including building contractors) or his or their agent, shall be unlawful and shall be forwarded to the City Attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the City a forfeiture of not less than Twenty Dollars ($20.00) and not more than Two Hundred Dollars ($200.00), together with a taxable cost of such action. Each day during within such violation exists shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the City, the State or any citizen thereof pursuant to Section 87.30, Wis. Stats.

SEC. 13-3-81 THROUGH SEC. 13-3-89 RESERVED FOR FUTURE USE.

ARTICLE J

Definitions

SEC. 13-3-90 DEFINITIONS.

(a) Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the same meaning as they have at common law and to give this Chapter its most reasonable application. Words used in the present tense include the future. Words used in the singular number include the plural and words in the plural number include the singular. The word "may" is permissive. The word "shall" is mandatory and not discretionary.

(1) A Zones -- Those areas shown on a municipality's "Official Floodplain Zoning Map" which would be inundated by the "regional flood" as defined herein. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

(2) Accessory Structure or Use -- A detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

(3) Board of Appeals/Adjustment -- The body established under Chapter 62.23, Wis. Stats., for cities or villages and designated "board of appeals," or as established under Chapter 59.99, Wis. Stats., for counties and designated "board of adjustment."

(4) Bulkhead Line -- A geographic line along a reach of navigable body of water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this Chapter.

(5) Certificate of Compliance -- A certification by the Zoning Administrator stating that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this Chapter.

(6) Channel -- A natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.

(7) Department -- The Wisconsin Department of Natural Resources.

(8) Development -- Any artificial change to improved or unimproved real estate, including but not limited to construction of buildings, structure or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.

(9) Dryland Access -- A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

(10) Encroachment -- Any fill, structure, building, use or development in the floodway.

(11) Existing Mobile Home Park or Mobile Home Subdivision -- A parcel (or contiguous parcels) or land divided into two (2) or more mobile home lots

for rent or sale for which the construction of facilities for servicing the lots (including, as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Chapter.

(12) Expansion to Existing Mobile/Manufactured Home Park -- means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be placed. This includes installation of utilities, either final site grading, pouring pads or construction of streets.

(13) Federal Emergency Management Agency (FEMA) -- The federal agency that administers the National Flood Insurance Program. This agency was previously known as the Federal Insurance Administration (FIA) or the Department of Housing and Urban Development (HUD).

(14) Flood or Flooding -- A general and temporary condition of partial or complete inundation of normally dry land areas caused by:
   a. The overflow or rise of inland waters;
   b. The rapid accumulation or runoff of surface waters from any source;
   c. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; and
   d. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

(15) Flood Frequency -- The probability of a flood occurrence. A flood frequency is generally determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.

(16) Flood Fringe -- That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood, and generally associated with standing water rather than flowing water.

(17) Flood Hazard Boundary Map -- A map prepared by FEMA, designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance program.

(18) Flood Insurance Study -- A technical engineering examination, evaluation and determination of the municipal flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood elevations and may provide floodway lines. The flood hazard areas are designated as unnumbered and numbered A-Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

(19) Floodplain -- That land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe and may include other designated floodplain areas for regulatory purposes.

(20) Floodplain Island -- A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

(21) Floodplain Management -- The full range of public policy and action for insuring wise use of floodplains. It includes everything from the collection

and dissemination of flood data to the acquisition of floodplain lands and the enactment and administration of codes, ordinances and statutes for land use in the floodplain.

(22) Flood Profile -- A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

(23) Floodproofing -- Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding for the purpose of reducing or eliminating flood damage.

(24) Flood Protection Elevation -- An elevation two (2) feet of freeboard above the water surface profile associated with the regional flood. (Also see: Freeboard.)

(25) Floodway -- The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

(26) Flood Storage -- Those floodplain areas where storage of floodwaters has been taken into account in reducing the regional flood discharge.

(27) Freeboard -- Means a flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of the river or stream bed.

(28) Habitable Buildings -- Means any building or portion thereof used for human habitation.

(29) Hearing Notice -- Publication or posting meeting the requirements of Ch. 985, Wis. Stats., Class 1 notice is the minimum required for appeals: Published once at least one (1) week (seven days) before the hearing. Class 2 notice is the minimum required for all zoning ordinances and amendments including map amendments, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

(30) High Flood Damage Potential -- Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

(31) Human Habitation -- A human residence or dwelling.

(32) Increase in Regional Flood Height -- A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, resulting comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

(33) Land Use -- Any nonstructural use made of unimproved or improved real estate. (Also see Development.)

(34) Mobile Home or Manufactured Home -- A structure transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For the purpose of this Chapter, it does not include recreational vehicles or travel trailers.

(35) Municipality or Municipal -- The City governmental units enacting, administering and enforcing this floodplain zoning Chapter.

(36) NGVD or National Geodetic Vertical Datum -- Elevations referenced to mean sea level datum, 1929 adjustment.

(37) Nonconforming Structure -- An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this Chapter for the area of floodplain which it occupies. (For example, an existing residential structure in the flood fringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.)

(38) Nonconforming Use -- A nonconforming use is an existing lawful use or accessory use of a structure, building which is not in conformity with the provisions of this Chapter for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

(39) Obstruction to Flow -- Any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

(40) Official Floodplain Zoning Map -- That map, adopted and made part of this Chapter, which has been approved by the Department of Natural Resources and FEMA.

(41) Open Space Use -- Those uses having a relatively low flood damage potential and not involving structures.

(42) Ordinary High-Water Mark -- The point on the bank or shore up to which the presence and action or surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

(43) Person -- An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

(44) Private Sewage System -- A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Industry, Labor and Human Relations including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one (1) structure or a system located on a different parcel than the structure.

(45) Public Utilities -- Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

(46) Regional Flood -- A flood determined to be representative of large floods known to have occurred in Wisconsin or which may be expected to occur on a particular lake, river or stream once in every one hundred (100) years.

(47) Structure -- Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

(48) Substantial Improvements -- Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either:

a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
b. Any alteration of a structure or site documented as deserving preservation by a Wisconsin State Historical Society or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components. (For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structures.)

(49) Unnecessary Hardship -- Those circumstances which are special conditions affecting a particular property, which are not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the Chapter.

(50) Variance -- An authorization granted by the Board of Appeals to construct, alter or use a structure in a manner which is inconsistent with the dimensional standards contained in this Chapter.

(51) Watershed -- The entire region or area contributing runoff or surface water to a particular watercourse or body of water.

(52) Water Surface Profile -- A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

(53) Well -- An excavation opening in the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater regardless of its intended use.

CHAPTER 4

Annexations

13-4-1 Annexation of November, 1989

SEC. 13-4-1 ANNEXATION OF NOVEMBER, 1989.

(a) **Description.** The following territory is annexed to the City of Montreal and detached from the Town of Pence, described as follows:

> All that part of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4), Section 32, Township 46 North, Range 2 East, lying South and East of State of Wisconsin Highway #77 in the Town of Pence, Iron County, Wisconsin.

(b) **Zoning Classification.** Upon annexation, the above premises shall be zoned R-1 Residential in accordance with the City of Montreal Zoning Code.

CHAPTER 5

Historic Preservation

13-5-1 Purpose and Intent
13-5-2 Definitions
13-5-3 Historic Preservation Commission Composition
13-5-4 Historic Structure, Historic Site and Historic District Designation Criteria
13-5-5 Powers and Duties of the Commission
13-5-6 Procedures
13-5-7 Interim Control

SEC. 13-5-1 PURPOSE AND INTENT.

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special charter or special architectural, archeological or historic interest or value is public necessity and is required in the interest of the health, prosperity, safety and welfare or the people. The purpose of this Chapter is to:

(a) Effect and accomplish the protection, enhancement, and preservation of such improvements, sites and districts which represent or reflect elements of the City of Montreal's cultural, social, economic, political and architectural history.

(b) Safeguard the City of Montreal's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts.

(c) Stabilize and improve property values, and enhance the visual and aesthetic charter of the City of Montreal.

(d) Protect and enhance the City of Montreal's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

SEC. 13-5-2 DEFINITIONS.

The definitions shall be as follows in this Chapter:

(a) **Certificate of Appropriateness.** The certificate issued by the Council approving alteration, rehabilitation, construction, reconstruction or demolition of a historic structure, historic site or any improvement in a historic district.

(b) **Historic District.** An area designated by the Common Council that contains two (2) or more historic improvements or sites.

(c) **Historic Site.** Any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this Chapter, or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

(d) **Historic Structure.** Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, state or nation and which has been designated as a historic structure pursuant to the provisions of this Chapter.

(e) **Improvement.** Any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including street, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

SEC. 13-5-3 HISTORIC PRESERVATION COMMISSION COMPOSITION.

A Historic Preservation Commission is hereby created, consisting of five (5) members. Of the membership one (1) shall be an Alderman, and four (4) shall be citizen members. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The Mayor shall appoint the Commissioners subject to confirmation by Common Council.

SEC. 13-5-4 HISTORIC STRUCTURE, HISTORIC SITE AND HISTORIC DISTRICT DESIGNATION CRITERIA.

(a) For purposes of this Chapter, a historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to the City of Montreal such as historic structures, sites, or district which:
   (1) Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
   (2) Are identified with historic personages or with important events in national, state or local history; or
   (3) Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
   (4) Are representative of the notable work of a master builder, designer or architect who influenced his age; or
   (5) Have yielded, or may be likely to yield, information important to prehistory or history.

(b) The Commission shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this Chapter.

SEC. 13-5-5 POWERS AND DUTIES OF THE COMMISSION.

(a) **Designation.** The Historic Preservation Commission shall have the power, subject to Section 13-5-6, to designate historic structures and historic sites and to recommend designation of historic districts within the City of Montreal limits. Such designations shall be based on Section 13-5-4. Historic districts shall be approved by the Common Council. Once designated, such historic structures, sites and districts shall be subject to all the provisions of this Chapter.

(b) **Regulation of Construction, Reconstruction, Alteration and Demolition.**
   (1) No owner or person in charge of a historic structure, historic site or structure within a historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement

upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. Also, unless such Certificate has been granted by the Commission, the Building Inspector shall not issue a permit for any such work.

(2) Upon filing of any application for a Certificate of Appropriateness with the Commission, the Commission shall approve the application unless:

a. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done;

b. In the case of the construction of a new improvement upon a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;

c. In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the propose and intent of this Chapter and to the objectives and design criteria of the historic preservation plan for said district;

d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City of Montreal and state;

e. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.

(3) If the Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The Commission shall make this decision within forty-five (45) days of the filing of the application.

(4) The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City of Montreal. A building permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.

(5) Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

(c) **Appeals.** Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Common Council within thirty (30) days. In addition, if the Commission fails to issue a Certificate of Appropriateness, the Commission shall, with the cooperation of the applicant, work with the applicant

in an attempt to obtain a Certificate of Appropriateness within the guidelines of this Chapter.

(d) **Recognition of Historic Structures, Sites and Districts.** At such time as a historic structure, site or district has been properly designated, the Commission, in cooperation with property owner, may cause to be prepared and erected on such property at City of Montreal expense, a suitable plaque declaring that such property is a historic structure, site or district.

SEC. 13-5-6 PROCEDURES.

(a) **Designation of Historic Structures and Historic Sites.**

(1) The Commission may, after notice and public hearing, designate historic structures and historic sites, or rescind such designation or recommendation, after application of the criteria in Section 13-5-4 above. At least ten (10) days prior to such hearing, the Commission shall notify the owners of record, as listed in the office of the City of Montreal assessor, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected.

(2) The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or recision. Within ten (10) days after the close of the public hearing, the Commission may designate the property as either a historic structure, or a historic site, or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the City Clerk, Building Inspection Division, Plan Commission and City Assessor. The Commission shall cause the designation or recision to be recorded, at City of Montreal expense, in the County Register of Deeds office.

(b) **Creation of Historic District.**

(1) For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the City of Montreal to be designated as Historic Districts and shall prepare a historic preservation plan for each area. A Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the City of Montreal, after application of the criteria in Section 13-5-4 above. Each historic preservation plan prepared for or by the Historic Preservation Commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

(2) Review and Adoption Procedure.

a. Historic Preservation Commission. The Historic Preservation Commission shall hold a public hearing when considering the plan for a Historic District. Notice of the time, place and purpose of the public hearing shall be sent by the City Clerk to the Alderman of Aldermanic Districts in which the Historic District is located, and the owners of record, as listed in the office of the City Assessor, who are owners of the property within the proposed Historic District or are situated in

whole or in part within two hundred (200) feet of the boundaries of the proposed Historic District. Said notice is to be sent at least ten (10) days prior to the date of the public hearing. Following the public hearing, the Historic Preservation Commission shall vote to recommend, reject or withhold action on the plan.

b. The Common Council. The Common Council, upon receipt of the recommendations from the Historic Preservation Commission, shall hold a public hearing, notice to be given as noted in Subsection a. above and shall, following the public hearing, either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.

SEC. 13-5-7 INTERIM CONTROL.

No building permit shall be issued by the Building Inspector for alteration, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination by the Historic Preservation Commission or the Common Council, unless such alteration, removal or demolition is authorized by formal resolution of the City Council as necessary for public health, welfare or safety. In no event shall be delay be for more than one hundred eighty (180) days.

TITLE 14

Subdivision Regulations

Chapter 1 Subdivision Regulations

CHAPTER 1

Subdivision Regulations

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SEC. 14-1-1 INTRODUCTION AND PURPOSE.

(a) **Introduction.** In accordance with the authority granted by Section 236.45 of the Wisconsin Statutes and for the purposes listed in Section 236.01 and 236.45 of the Wisconsin Statutes, the Common Council of the City of Montreal does hereby ordain as follows:

(1) The provisions of this Chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the City.

(2) This Chapter shall not repeal, impair or modify private covenants or public ordinances, except that it shall apply whenever it imposes stricter restrictions on land use.

(b) **Purpose.** The purpose of this Chapter is to promote the public health, safety, convenience and general welfare. The regulations are designed to lessen congestion in the streets; to foster the orderly layout and use of land; to insure safety from fire, flooding, panic and other dangers; to provide optimum light and air; to discourage overcrowding of the land; to lessen concentration of population; to facilitate adequate provision of transportation, public water and sewerage, schools, parks, playgrounds and other public necessities; and to facilitate the further division of large tracts of land into smaller parcels. The

regulations are made with the reasonable consideration of, but not limited to, the present character of the City and its environs, with the objectives of conserving the value of the land and improvements placed thereon, providing the most appropriate environment for human habitation, encouraging commerce and industry and providing for the most appropriate use of land in the City.

State Law Reference: Chapter 236, Wis. Stats.

SEC. 14-1-2 DEFINITIONS.

(a) The following definitions shall be applicable in this Chapter.

(1) Alley. A public right-of-way which normally affords a secondary means of vehicular access to abutting property.

(2) Arterial Street. A street which provides for the movement of relatively heavy traffic to, from or within the City. It has a secondary function of providing access to abutting land.

(3) Block. An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or water bodies.

(4) Collector Street. A street which collects and distributes internal traffic within an urban area such as a residential neighborhood, between arterial and local streets. It provides access to abutting property.

(5) Commission. The Plan Commission created by the Common Council pursuant to Section 62.23 of the Wisconsin Statutes.

(6) Comprehensive Development Plan. A comprehensive plan prepared by the City indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

(7) Cul-de-sac. A short street having but one (1) end open to traffic and the other end being permanently terminated in a vehicular turnaround.

(8) Division of Land. Where the title or any part thereof is transferred by the execution of a land contract, an option to purchase, an offer to purchase and acceptance, a deed, or a certified survey, and a division occurs where any of the above transactions change the title from a joint tenancy to a tenancy in common or from tenancy in common to joint tenancy.

(9) Easement. The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.

(10) Extraterritorial Plat Approval Jurisdiction. The unincorporated area within one and one-half (1-1/2) miles of a fourth-class city or a village and within three (3) miles of all other cities.

(11) Final Plat. The final map, drawing or chart on which the subdivider's plan of subdivision is presented for approval and which, if approved, will be submitted to the County Register of Deeds. Said plat must conform to all State laws.

(12) Frontage Street. A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

(13) Improvement, Public. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the City may ultimately assume the responsibility for maintenance and operation.

(14) Local Street. A street of little or no continuity designed to provide access to abutting property and leading into collector streets.

(15) Lot. A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter and any applicable zoning ordinance.

(16) Lot, Area. The area contained within the exterior boundaries of a lot excluding streets, easements and land under navigable bodies of water.

(17) Lot, Corner. A lot abutting intersecting streets at their intersection.

(18) Lot, Reversed Corner. A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.

(19) Lot, Through. A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a "through lot," both street lines shall be deemed front lot lines.

(20) Lot Lines. The peripheral boundaries of a lot as defined herein.

(21) Lot Width. The width of a parcel of land measured along the front building line.

(22) Major Thoroughfare. A street used or intended to be used primarily for fast or heavy through traffic. Major thoroughfares shall include freeways, expressways and other highways and parkways, as well as arterial streets.

(23) Marginal Access Street. A street which is parallel to and adjacent to major thoroughfares and which provides access to abutting properties and protection from traffic on the major street.

(24) Minor Street. A street used, or intended to be used, primarily for access to abutting properties.

(25) Minor Subdivision. The division of land by the owner or subdivider resulting in the creation of not more than four (4) parcels or building sites.

(26) Owner. Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these.

(27) Pedestrian Pathway. A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.

(28) Plat. The map, drawing or chart on which the subdivider's plat of subdivision is presented to the City for approval.

(29) Preliminary Plat. The preliminary plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Common Council for their consideration as to compliance with the Comprehensive Development Plan and these regulations along with required supporting data.

(30) Protective Covenants. Contracts entered into between private parties which constitute a restriction on the use of all private property within a subdivision for the benefit of the property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

(31) Replat. The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.

(32) Shorelands. Those lands within the following distances: one thousand (1,000) feet from the high-water elevation of navigable lakes, ponds and flowages or three hundred (300) feet from the high-water elevation of

navigable streams or to the landward side of the floodplain, whichever is greater.

(33) Subdivider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision or replat.

(34) Subdivision. The division of a lot, outlot, parcel, or tract of land by the owner thereof or his agent for the purpose of transfer of ownership or building development where the act of division creates five (5) or more parcels or building sites of one and one-half (1-1/2) acres or less in area, or where the act of division creates five (5) or more parcels or building sites by successive division within a period of five (5) years, whether done by the original owner or a successor owner.

(35) Wetlands. Those lands which are partially or wholly covered by marshland flora and generally covered with shallow standing water or lands which are wet and spongy due to high-water table.

(36) Wisconsin Administrative Code. The rules of administrative agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system, as directed by Section 35.93 and Chapter 227 of the Wisconsin Statutes, including subsequent amendments to those rules.

SEC. 14-1-3 GENERAL PROVISIONS.

(a) **Compliance.** No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, land division or a replat as defined herein; no such subdivision, land division or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this Chapter and the following:

(1) The provisions of Ch. 236 and Sec. 80.08, Wis. Stats.

(2) The rules of the Division of Health contained in Wis. Adm. Code for Subdivisions H 85 not served by public sewer.

(3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code for Subdivisions Hy 33, which abut a state trunk highway or connecting street.

(4) The rules of the Wisconsin Department of Natural Resources contained in Wis. Adm. Code for Floodplain Management Program.

(5) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Common Council.

(6) All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.

(b) **Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the City of Montreal as well as the unincorporated area within one and one-half (1-1/2) miles of the corporate limits as provided in Sec. 236.10 and 62.32, Wis. Stats. The provisions of this Chapter, as they apply to divisions of tracts of land into less than five (5) parcels, shall not apply to:

(1) Transfers of interests in land by will or pursuant to court order;

(2) Leases for a term not to exceed ten (10) years, mortgages or easements;

(3) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this Chapter or other applicable laws or ordinances.

(c) **Certified Survey.** Any division of land other than a subdivision as defined in Sec. 236.02(8), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in Sec. 236.34, Wis. Stats.

(d) **Permits.** No building permit shall be issued by the City authorizing the building on or improvement of any parcel of land not on record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been met.

SEC. 14-1-4 PROCEDURE FOR SUBMITTING SUBDIVISIONS.

(a) **Preliminary Meetings.** Before filing a preliminary plat, or certified survey, the subdivider is encouraged to consult with the Common Council and/or its consulting staff for advice regarding general subdivision requirements. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components and duly adopted plan implementation devices of the City and to otherwise assist the subdivider in planning his development. In so doing, both the subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.

(b) **Preliminary Plat Review Within the City.**

(1) Submission. Before submitting a Final Plat for approval, the subdivider shall prepare a Preliminary Plat and a letter of application. The Preliminary Plat shall be prepared in accordance with this Chapter, and the subdivider shall file an adequate number of copies of the Plat and the application as required by this Section with the City Clerk-Treasurer at least ten (10) days prior to the meeting of the Common Council at which action is desired. The City Clerk-Treasurer may submit a copy of the preliminary plat to the City Engineer for review and written report of his recommendations and reactions to the proposed plat.

(2) Public Improvements, Plans and Specifications. Simultaneously with the filing of the preliminary plat of map, the owner shall file with the City Clerk-Treasurer five (5) complete sets of preliminary plans and specifications for the construction of any public improvements required by this Chapter.

(3) Property Owners Association. The Common Council may require submission of a draft of the legal instruments and rules for proposed property owners associations when the subdivider proposes that common property within a subdivision would be either owned or maintained by such an organization of property owners.

(4) Affidavit. The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this Chapter.

(5) Supplementary Data to be Filed with Preliminary Plat. The following shall also be filed with the preliminary plat:

a. A statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population; and

b. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and

c. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Common Council may require that the subdivider submit a preliminary plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.

(6) Referral to Other Agencies. The City Clerk-Treasurer shall, within two (2) days after filing, transmit four (4) copies to the County Planning Agency, two (2) copies to the Director of the Planning Function in the Wisconsin Department of Local Affairs and Development, additional copies to the Director of the Planning Function for retransmission of two (2) copies each to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street and the Wisconsin Department of Health and Social Services if the subdivision is not served by the public sewer and provision for such service has not been made, and an adequate number of copies to the Common Council. The County Planning Agency, the Wisconsin Department of Local Affairs and Development, the Wisconsin Department of Transportation and the Wisconsin Department of Health and Social Services shall be hereinafter referred to as objecting agencies.

(7) Drafting Standards. The subdivider shall submit to the City Clerk-Treasurer and to those agencies having the authority to object to plats under provisions in Chapter 236 of the Wisconsin Statutes copies of a preliminary plat (or certified survey) based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale of not more than one (1) inch per one hundred (100) feet having two (2) foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), easements which the subdivider proposes to make and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted.

(c) **Preliminary Plat Approval Within the City.**

(1) The Common Council shall, within forty (40) days of the date the preliminary plat was filed with the City Clerk-Treasurer, approve, approve conditionally or reject such plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement by the subdivider. Failure of the Common Council to act within forty (40) days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The City Clerk-Treasurer shall communicate to the subdivider the action of the Common Council. If the plat or map is approved, the City Clerk-Treasurer shall endorse it for the Common Council.

(2) Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within six (6) months of preliminary plat approval and conforms substantially to the preliminary plat layout as indicated in Section 236.11(1)(b) of the Wisconsin Statutes, the Final Plat shall be entitled to approval with respect to such layout. The Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat which will be subject to further consideration by the Common Council at the time of its submission.

(3) Should the subdivider desire to amend the preliminary plat as approved, he may resubmit the amended plat which shall follow the same procedure, except for the hearing and fee, unless the amendment is, in the opinion of

the Common Council, of such scope as to constitute a new plat, in which such case it shall be refiled.

(d) **Final Plat Review.**

(1) The subdivider shall prepare a Final Plat and a letter of application in accordance with this Chapter and shall file copies of the Plat and the application with the City Clerk-Treasurer at least ten (10) days prior to the meeting of the Common Council at which action is desired. The owner or subdivider shall file six (6) copies of the final plat not later than twelve (12) months after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the City. The owner or subdivider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the City Attorney may require showing title or control in the applicant.

(2) The City Clerk-Treasurer shall, within two (2) days after filing, transmit four (4) copies to the County Planning Agency, two (2) copies to the Director of the Planning Function in the Wisconsin Department of Local Affairs and Development, additional copies to the Director of the Planning Function for retransmission of two (2) copies each to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street and the Wisconsin Department of Health and Social Services if the subdivision is not served by a public sewer and provision for service has not been made, and the original Final Plat and adequate copies to the Common Council. The County Planning Agency, the Wisconsin Department of Local Affairs and Development, the Wisconsin Department of Transportation, and the Wisconsin Department of Health and Social Services shall be hereinafter referred to as objecting agencies.

(3) The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Section 236.12(2).

(4) Simultaneously with the filing of the final plat or map, the owner shall file with the City Clerk-Treasurer six (6) copies of the final plans and specifications of public improvements required by this Chapter.

(5) The City Clerk-Treasurer shall refer two (2) copies of the final plat to the Common Council, one (1) copy to the Engineer, and a copy each to the telephone and power and other utility companies. The abstract of title or registered property report shall be referred to the attorney for his examination and report. The City Clerk-Treasurer shall also refer the final plans and specifications of public improvements to the City Engineer for review. The recommendations of the City Engineer shall be made within thirty (30) days of the filing of the final plat. The City Engineer shall examine the plat or map and final plans and specifications of public improvements for technical details and, if he finds them satisfactory, shall so certify in writing to the Common Council. If the plat or map or the plans and specifications are not satisfactory, the City Engineer shall return them to the owner and so advise the Common Council.

(6) The Common Council shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this Chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it.

(e) **Partial Platting.** The Final Plat may, if permitted by the Common Council, constitute only that portion of the approved Preliminary Plat which the subdivider proposes to record at the time.

(f) **Final Plat Approval.**

(1) The objecting agencies shall, within twenty (20) days of the date of receiving their copies of the Final Plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are not objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the Common Council. If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objection to the Plat.

(2) If the Final Plat is not submitted within twelve (12) months of the last-required approval of the Preliminary Plat, the Common Council may refuse to approve the Final Plat.

(3) The Common Council shall, within sixty (60) days of the date of filing the original Final Plat with the City Clerk-Treasurer, approve or reject such Plat unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Common Council may not inscribe its approval on the Final Plat unless the City Clerk-Treasurer certifies on the fact of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within twenty (20) days or, if filed, have been met.

(4) Failure of the Common Council to act within sixty (60) days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.

(5) After the Final Plat has been approved by the Common Council and required improvements either installed or a contract and sureties insuring their installation is filed, the City Clerk-Treasurer shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the county register of deeds. The register of deeds cannot record the Plat unless it is offered within thirty (30) days from the date of last approval.

(6) The subdivider shall file ten (10) copies of the Final Plat with the City Clerk-Treasurer for distribution to the approving agencies and other affected agencies for their files.

(g) **Engineering Fee.** The subdivider shall pay a fee equal to the actual cost to the City for all engineering work incurred by the City in connection with the plat or certified survey map.

(h) **Administrative and Review Fees.**

(1) The subdivider shall pay a fee equal to the cost of any legal, administrative or fiscal work which may be undertaken by the City in connection with the plat or certified survey map.

(2) In order to cover the cost of examining plans, advertising and holding public hearings, and other expenses incidental to the approval of a subdivision, the subdivider shall, in addition, pay a review fee at the time of application for tentative approval of a preliminary plat. Such fee will be based upon the estimated number of lots created. At the time of application for final approval of the subdivision, the required fee will be recalculated on the basis of the actual number of lots created and an adjustment of the fee will be made; the subdivider shall pay an additional amount or shall receive a refund of any portion of the fee. If the subdivider fails to apply for final approval of the subdivision, one-third

(1/3) of the initial fee will be refunded. If, because of the failure of the subdivider to submit a final plat within six (6) months after receiving tentative approval of the preliminary plat, it is necessary to resubmit a preliminary plat for tentative approval, the subdivider shall be required to pay the fee currently in effect at the time of resubmission.

(3) The fees for approval of the subdivision shall be charged and collected at the following rates:

Number of Lots in Subdivision	Fee
1 to 15	$30.00
16 and over	$30.00 plus $2.00 for each lot in excess of 15

SEC. 14-1-5 TECHNICAL REQUIREMENTS FOR PRELIMINARY PLATS.

(a) **General.** A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on tracing cloth or paper of good quality at a scale of not more than one hundred (100) feet to the inch and shall show correctly on its face the following information:

(1) Title under which the proposed subdivision is to be recorded.
(2) Location of the proposed subdivision by government lot, quarter section, township, range, county and state.
(3) Date, Scale and North Point.
(4) Names and Addresses of the owner, subdivider and land surveyor preparing the plat.
(5) Entire Area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the preliminary plat even though only a portion of said area is proposed for immediate development. The Common Council may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Chapter and under hardship would result from strict application thereof.

(b) **Plat Data.** All preliminary plats shall show the following:

(1) Exact Length and Bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
(2) Locations of all Existing Property Boundary Lines, structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.
(3) Location, Right-of-Way Width and Names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
(4) Location and Names of any Adjacent Subdivisions, parks and cemeteries and owners of record of abutting unplatted lands.
(5) Type, Width and Elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations.
(6) Location, Size and Invert Elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catchbasins, hydrants, electric and communication facilities, whether overhead or

underground and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.

(7) Corporate Limit Lines within the exterior boundaries of the plat or immediately adjacent thereto.

(8) Existing Zoning on and adjacent to the proposed subdivision.

(9) Contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Seal Level Datum at vertical intervals of not more than two (2) feet. At least two (2) permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the bench marks clearly and completely described. Where, in the judgment of the Common Council, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.

(10) High-Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom.

(11) Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom at the date of the survey.

(12) Floodland and Shoreland Boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, two (2) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within one hundred (100) feet therefrom.

(13) Location and Results of Percolation Tests within the exterior boundaries of the plat conducted in accordance with Section H 85.06 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service.

(14) Location, Width and Names of all proposed streets and public rights-of-way such as alleys and easements.

(15) Approximate Dimensions of All Lots together with proposed lot and block numbers.

(16) Location and Approximate Dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting.

(17) Approximate Radii of all Curves.

(18) Any Proposed Lake and Stream Access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.

(19) Any Proposed Lake and Stream improvement or relocation, and notice of application for approval by the Division of Environmental Protection, Department of Natural Resources, when applicable.

(20) Where the Common Council finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the preliminary plat, it shall have the authority to request in writing such information from the subdivider.

(c) Submission. The subdivider may consult with the Common Council regarding the requirements for minor subdivisional certified surveys before submission of the

final map. Following consultation, a copy of the final map in the form of a certified survey map shall be submitted to the City.

(d) **Proposed Layout.** The Common Council may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not planned at the time.

(e) **Requirements.** To the extent reasonably practicable, the certified survey/minor subdivision plat shall comply with the provisions of this Chapter relating to general requirements, design standards and required improvements. Conveyance by metes and bounds shall be prohibited where the lot(s) involved is less than one and one-half (1-1/2) acres or three hundred (300) feet in width.

SEC. 14-1-6 REPLAT.

(a) When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded Plat as provided in Sections 236.40 through 236.44 of the Wisconsin Statutes. The subdivider, or person wishing to replat, shall then proceed as specified in Subsections (a) through (f) of Section 14-1-4.

(b) The City Clerk-Treasurer shall schedule a public hearing before the Common Council when a Preliminary Plat of a replat of lands within the City is filed, and shall cause notices of the proposed Replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed Replat and to the owners of all properties within two hundred (200) feet of the exterior boundaries of the proposed Replat.

SEC. 14-1-7 MINOR SUBDIVISIONS.

When it is proposed to divide land into two (2) parcels or building sites, any one (1) of which is less than five (5) acres, or when it is proposed to divide a block, lot or outlot into not more than four (4) parcels or building sites within a recorded subdivision plat without changing the exterior boundaries of the block, lot or outlot, the subdivider shall subdivide by use of a certified survey map, prepared in accordance with Section 236.34, Wis. Stats. The proposed certified survey map shall be reviewed by the Common Council for conformance with this Chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which affect it. The Common Council shall approve, approve conditionally or reject such map within sixty (60) days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider. The subdivider shall record the map with the applicable county register of deeds within thirty (30) days of its approval by the Common Council and any other approving agencies. Failure to do so shall necessitate reapproval of the map by the Common Council.

SEC. 14-1-8 DESIGN STANDARDS -- STREETS.

(a) **Compliance with Statutes.** In laying out a subdivision, the owner shall conform to the provisions of Chapter 236, Wis. Stats., and all applicable code sections. In all cases where the requirements of this Chapter are different from the requirements of Chapter 236, the more restrictive provision shall apply.

(b) **Dedication.** The subdivider shall dedicate land and improve streets as provided in this Chapter. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses and public convenience and safety. Streets shall conform to the official map of the City.

(c) **Sufficient Frontage.** All lots shall have sufficient frontage on a public street to allow access by emergency and service motor vehicles.

(d) **Compliance with Comprehensive Plan.** The arrangement, character, extent, width, grade and location of all streets shall conform to the City's Comprehensive Development Plan and to this Chapter and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The arrangement of streets in new subdivisions shall make provision for the appropriate continuation at the same width of the existing streets in adjoining areas.

(e) **Areas Not Covered by Official Map.** In areas not covered by the Comprehensive Plan, the layout of streets shall conform to the plan for the most advantageous development of adjoining areas of the neighborhood. Streets shall be designed and located in relation to existing and officially planned streets, topography and natural terrain, streams and lakes and existing tree growth, public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets.

(f) **Street Classifications.** Streets shall be classified as indicated below.

(1) Arterial Streets. Arterial streets shall be arranged to provide through traffic for a heavy volume of vehicles.

(2) Collector Streets. Collector streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to special traffic generators such as schools, churches and shopping centers and other concentrations of population and to the major streets into which they feed.

(3) Minor Streets. Minor streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems and to require the minimum street area necessary to provide safe and convenient access to abutting property.

(4) Proposed Streets. Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions or unless, in the opinion of the Common Council, such extension is not necessary or desirable for the coordination of the layout of the subdivision or land division or for the advantageous development of the adjacent tracts.

(5) Reserve Strips. Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such strips is placed with the City under conditions approved by the Common Council.

(6) Alleys. Alleys may be provided in commercial and industrial districts for off-street loading and service access, but shall not be approved in non-multiple family residential districts. Dead-end alleys shall not be approved and alleys shall not connect to a major thoroughfare.

(g) **Extraterritorial Streets.** Streets located in the extraterritorial plat jurisdiction of the City of Montreal must also comply with the minimum town road standards of Section 86.26, Wis. Stats.

(h) **Continuation.** Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit. Provision shall be made so that all proposed streets shall have a direct connection with, or be continuous and in line with, existing, planned or platted streets with which they are to connect. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Common Council such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing layout or the most advantageous future development of adjacent tracts. Dead-end streets not over five hundred (500) feet in length will be approved when necessitated by the topography.

(i) **Minor Streets.** Minor streets shall be so laid out so as to discourage their use by through traffic.

(j) **Number of Intersections.** The number of intersections of minor streets with major streets shall be reduced to the practical minimum consistent with circulation needs and safety requirements.

(k) **Frontage Roads.** Where a subdivision abuts or contains an existing or proposed arterial highway, the Common Council may require a frontage road, nonaccess reservation along the rear of the property contiguous to such highway or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.

(l) **Arterial Street and Highway Protection.** Whenever the proposed subdivision contains or is adjacent to a major street or highway, adequate protection of residential properties, limitation of access and separation of through and local traffic shall be provided by reverse frontage, with screen planting contained in a nonaccess reservation along the rear property line, or by the use of frontage streets.

(m) **Private Streets.** Private streets shall not be approved nor shall public improvements be approved for any private street; all streets shall be dedicated for public use.

(n) **Visibility.** Streets shall afford maximum visibility and safety and shall intersect at right angles where practicable.

(o) **Tangents.** A tangent at least one hundred (100) feet long shall be required between reverse curves on arterial and collector streets.

(p) **Street Grades.**

(1) Unless necessitated by exceptional topography subject to the approval of the Common Council, the maximum centerline grade of any street or public way shall not exceed the following:

Arterial streets: six percent (6%).
Collector streets: eight percent (8%).
Minor streets, alleys and frontage streets: ten percent (10%).
Pedestrian ways: twelve percent (12%) unless steps of acceptable design are provided.
The grade of any street shall in no case exceed twelve percent (12%) or be less than one-half (1/2) of one percent (1%).

(2) Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and general leveling of the topography. All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to fifteen (15) times the algebraic difference in the rates of grade for major streets and one-half (1/2) this minimum for all other streets.

(q) **Radii of Curvature.** When a continuous street centerline deflects at any one (1) point by more than ten (10) degrees, a circular curve shall be introduced having a radius of curvature on said centerline of not less than the following:

Arterial streets and highways: five hundred (500) feet.
Collector streets: three hundred (300) feet.
Minor streets: one hundred (100) feet.

(r) **Vertical Curves.** All changes in street grades shall be connected by vertical curves of a minimum length in feet equivalent to thirty (30) times the algebraic difference in grade for major thoroughfares and twenty (20) times this algebraic difference for all other streets.

(s) **Half Streets.** Where a half street is adjacent to the subdivision, the other half street shall be dedicated by the subdivider.

(t) **Intersections.**
(1) Property lines at street intersections of major thoroughfares shall be rounded with a radius of fifteen (15) feet or of a greater radius where the Common Council considers it necessary.
(2) Provisions of the Zoning Code with respect to Traffic Visibility at street intersections shall also apply here.
(3) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
(4) Number of streets converging at one (1) intersection shall be reduced to a minimum, preferably not more than two (2).

(u) **Alleys.**
(1) Alleys shall be provided in all commercial and industrial districts, except that the Common Council may waive this requirement where other definite and assured provisions are made for service access, such as off-street loading and parking, consistent with and adequate for the uses proposed. No alleys shall connect with a major thoroughfare. Alleys in residential areas other than those zoned for multiple-family use shall not be permitted.
(2) Dead-end streets designed to be permanently without outlets shall be avoided. When it shall be necessary to provide dead-end streets temporarily or permanently in order to economically develop the plat, they shall be no longer than three hundred (300) feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least one hundred fifteen (115) feet and a street property line diameter of at least one hundred thirty (130) feet.

(v) **Street Names.** New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the names of the existing streets. Street names shall be subject to approval by the Common Council.

(w) **Cul-de-Sacs.**
(1) Cul-de-sacs. Cul-de-sac streets designed to have one (1) end permanently closed shall not exceed five hundred (500) feet in length. All cul-de-sac streets designed to have one (1) end permanently closed shall terminate in a circular turnaround having a minimum right-of-way radius of sixty (60) feet and a minimum inside curb radius of forty (40) feet.
(2) Temporary Dead-ends or Cul-de-sacs. All temporary dead-ends shall have a maximum length of eight hundred (800) feet and a temporary cul-de-sac shall have a minimum right-of-way radius of sixty (60) feet and a minimum inside curb radius of forty (40) feet.

(x) **Limited Access Highway and Railroad Right-of-way Treatment.** Whenever the proposed subdivision contains or is adjacent to a limited access highway or railroad right-of-way, the design shall provide the following treatment:
(1) Subdivision Lots. When lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited access highway or a railroad, a planting strip at least thirty (30) feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth.

This strip shall be part of the platted lots but shall have the following restriction lettered on the face of the plat: "This strip reserved for the planting of trees and shrubs, the building of structures hereon prohibited."

(2) Commercial and Industrial Districts. Commercial and industrial districts shall have provided, on each side of the limited access highway or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than one hundred fifty (150) feet.

(3) Streets Parallel to a Limited Access Highway. Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street and highway or collector street which crosses said railroad or highway, shall be located at a minimum distance of two hundred fifty (250) feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.

(4) Minor Streets. Minor streets immediately adjacent and parallel to railroad rights-of-way shall be avoided, and location of minor streets immediately adjacent to arterial streets and highways and to railroad rights-of-way shall be avoided in residential areas.

SEC. 14-1-9 SPECIFICATIONS FOR PREPARATION, CONSTRUCTION AND DEDICATION OF STREETS AND ROADS.

(a) General Requirements.

(1) Construction Standards. All roadway construction and materials used shall be performed in accordance with the construction methods as listed in the appropriate sections of the "State of Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction" and its supplements, and this Chapter, whichever is more restrictive. The design requirements of this Section and Sections 14-1-8 and 14-1-15 shall be applicable to all streets and roads that are to be dedicated to the City, regardless of whether such streets or roads are part of a new subdivision or land division.

(2) Project Costs. All roadway surveys, dedications, plans and specifications and construction will be at the expense of the applicant or applicants. This includes any expense incurred by the City in the preparation of plans and review and inspection of plans and construction.

(3) Preliminary Consultation. Prior to the design, preparation and construction of any roadway to be dedicated to the City of Montreal, the applicant shall notify the City Clerk-Treasurer. An on-site meeting will then be arranged to be attended by the City Engineer and the applicant. Plans must be provided in order for the City Engineer to check the design and drainage.

(4) Material Slips. Copies of material slips for all materials furnished for the road construction projects shall be delivered to the City before the City approves the final construction.

(5) Required Inspections. The City Engineer shall be contacted for required inspections after the following phases of construction:

a. Subbase grading;
b. Crushed aggregate base course;
c. Bituminous surface course; and
d. Shouldering.

Any deficiencies found by the City Engineer shall be corrected before proceeding to the next phase of construction.

(6) Tests of Materials. The City reserves the right to obtain a sample of the roadway base material prior to placement on the roadway for purposes of determining whether the material meets gradation and soundness requirements.

(7) Pavement Samples. Samples of bituminous concrete will be taken by the City during pavement construction operations for purposes of determining that the material meets specifications.

(b) **Construction Standards.** All streets and highways constructed in the City or to be dedicated to the City shall fully comply with the following construction standards:

(1) Right-of-Way Width.
   a. Arterial streets: Minimum of eighty (80) feet.
   b. All other streets and roads: Minimum of sixty-six (66) feet.
   c. Cul-de-sacs: Minimum of sixty (60) feet.

(2) Roadway Ditches. Where curb and gutter is not required by the City, the minimum ditch slope shall be fifty one-hundredths percent (0.50%).

(3) Roadway Base Thickness.
   a. Residential streets shall have a minimum roadway base thickness of eight (8) inches of compacted in-place crushed aggregate base course of gradation No. 2 in the top layer and gradations No. 1 and No. 2 in the lower level.
   b. On commercial, arterial or other heavy-use streets, as determined by the Common Council, a base course of ten (10) inches compacted shall be constructed upon an inspected and approved subgrade, either well-graded crushed gravel from a state-approved pit with a maximum stone of one and one-half (1-1/2) inches and no greater than ten percent (10%) by weight passing a No. 200 sieve or No. 3 crushed rock approximately six (6) inches in depth and one (1) or more layers of fine aggregate, either three-fourths (3/4) inch crushed gravel, well-graded with no greater than ten percent (10%) passing a No. 200 sieve, or three-fourths (3/4) inch traffic-bound crushed rock.
   c. In the case of commercial, arterial or other heavy-use roads, the Common Council may, in the alternative to the above standards, have the City Engineer provide specifications for such roads after researching the site(s) and conducting a soil analysis.
   d. In any case, the Common Council shall have the sole discretion in determining the use and construction classification to be adhered to.
   e. In all cases, the base course shall be compacted to the extent necessary to produce a condition so that there will be no appreciable displacement of material laterally and longitudinally under traffic and shall conform to line, grades and shape shown on the approved plans, profiles and cross-sections.

(4) Roadway Base Thickness. Minimum of eight (8) inches of compacted in-place crushed aggregate base course -- gradation No. 2 in the top layer and gradations No. 1 and 2 in the lower layer.

(5) Roadway Sub-Base. Stable and nonorganic sub-base material is required. Unstable and organic material must be subcut, removed and replaced with a suitable granular or breaker-run material approved by the City Engineer.

(6) Pavement Width. Pavement width shall be a minimum of twenty-four (24) feet edge to edge for Urban Service Area minor streets and thirty-six (36) feet gutter edge to gutter edge for collector streets or streets serving commercial or industrial areas.

(7) Pavement Thickness. Residential streets shall have a minimum of two and one-half (2-1/2) inches thick compacted bituminous concrete pavement, placed in two (2) layers -- a binder course and one and one-half (1-1/2) inches thick and a surface course of one (1) inch. On commercial, arterial or other heavy-use streets, there shall be a minimum of three and one-half (3-1/2) inches of bituminous concrete pavement, placed in two (2) layers-- a binder course of two (2) inches thick and a surface course of one and one-half (1-1/2) inches thick. In the case of commercial, arterial or other heavy-use roads, the Common Council may, in the alternative to the above standards, have the City Engineer provide specifications for paving such roads after researching the site(s) and conducting a soil analysis. In any case, the Common Council shall have the sole discretion in determining the use and construction classification to be adhered to.

(8) Roadway Culverts and Bridges. Roadway culverts and bridges shall be constructed as directed by the City Engineer and sized utilizing the methods listed in Chapter 13, entitled "Drainage," of the "Facilities Development Manual" of the Wisconsin Department of Transportation. All roadway culverts shall be provided with concrete or metal apron endwalls.

(9) Driveway Culverts. Driveway culverts shall be sized by the City Engineer (if appropriate). The culverts shall be placed in the ditch line at elevations that will assure proper drainage, and they shall be provided with concrete, metal or landscape timber endwalls.

(10) Topsoil, Grass, Seed, Fertilizer and Mulch. All disturbed areas (ditches, backslopes) within the road right-of-way not provided with pavement and shouldering material shall be restored utilizing four (4) inches of topsoil and good quality grass seed, fertilizer and mulch. Ditches along the roadway with greater than a two and one-half percent (2.5%) slope shall be protected by erosion control materials such as hay bales, sod, erosion control mats, etc.

(11) Drainage Improvements. In the case of all new roads and streets, the Common Council may require that stormwater retention areas and storm sewers be constructed in order to provide for proper drainage.

SEC. 14-1-10 DESIGN STANDARDS -- BLOCK DESIGN.

(a) **Length; Arrangement.** The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated, but block length in residential areas shall not exceed one thousand three hundred twenty (1,320) feet nor have less than sufficient width to provide for two (2) tiers of lots of appropriate depth between street lines. As a general rule, blocks shall not be less than five hundred (500) feet in length. Blocks shall be so designated as to provide two (2) tiers of lots, unless it adjoins a railroad, major thoroughfare, river or park where it may have a single tier of lots.

(b) **Pedestrian Pathways.** Pedestrian pathways, not less than twelve (12) feet wide, may be required by the Common Council through the center of a block more than nine hundred (900) feet long, where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

(c) **Trees.** The Common Council may require that certain species of trees be planted on both sides of all streets. Street trees when planted shall not be less than sixty (60) feet apart with a minimum of one (1) per lot. They should preferably be placed six (6) to twenty (20) feet inside the property line rather than in the

boulevard. The minimum size and type to be planted shall conform to the provisions of applicable ordinances.

SEC. 14-1-11 DESIGN STANDARDS – LOTS.

(a) Size, shape and orientation of lots shall be appropriate for the location of topography of the subdivision and for the type of development contemplated, provided that no lot shall be smaller in area than the minimum lot size for the appropriate zone as established by the Zoning Code.
(b) Lot dimensions and setbacks shall conform to the requirements of the Zoning Code for the appropriate district in which the property is located.
(c) Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as required by the Zoning Code.
(d) Residential lots fronting on major streets and highways shall be platted with extra depth or design or alleviate the effect of major street traffic on residential occupancy.
(e) Corner lots for residential use shall have extra width to permit building setback from both streets, as required by the Zoning Code.
(f) Every lot shall abut or face a public street. Lots outside the corporate limits may abut or face a private street, if permitted by the Common Council.
(g) Butt lots will be permitted by the Common Council only in exceptional cases. Permitted butt lots shall be platted at least five (5) feet wide than the average width of interior lots in the block.
(h) Side lot lines shall be substantially at right angles to or radial to abutting street lines.
(i) In case a tract is divided into parcels of more than one and one-half (1-1/2) acres in areas, such parcels shall be so arranged to permit redividing into parcels in accordance with this Chapter and with the Zoning Code.
(j) Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
(k) In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
(l) All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels.
(m) In the case where a proposed plat is adjacent to a limited access highway, other major highway or thoroughfare, there shall be no direct vehicular access from individual lots to such streets and roads. In the platting of small tracts of land fronting on limited access highways or thoroughfares where there is no other alternative, a temporary entrance may be granted; as neighboring land becomes subdivided and more preferable access arrangements become possible, such temporary access permits shall become void.

SEC. 14-1-12 DRAINAGE SYSTEM.

(a) **Drainage System Required.** A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. A final plat shall not

be approved until the subdivider shall submit plans, profiles and specifications as specified in this Section, which have been prepared by a registered professional engineer and approved by the City Engineer.

(b) **Drainage System Plans.**

(1) The subdivider shall submit to the City Engineer and Common Council a report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the additional runoff which would be generated by the development of the land within the subdivision. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. The report shall also include:

a. Estimates of the quantity of storm water entering the subdivision naturally from areas outside the subdivision.

b. Quantities of flow at each inlet or culvert.

c. Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.

(2) A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area within the subdivision.

(3) The design criteria for storm drainage systems shall be based upon information provided by the City Engineer.

(4) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, sod, etc.) shall be in compliance with specifications provided by the Common Council or City Engineer.

(c) **Grading.** The subdivider shall grade each subdivision in order to establish street, block and lot grades in proper relation to each other and to topography as follows:

(1) The subdivider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans.

(2) Block grading shall be completed by one (1) or more of the following methods:

a. A ridge may be constructed along the rear lot lines which provides for drainage onto the streets.

b. Parts of all lots may be graded to provide for drainage to the street or to a ditch along the rear lot line.

c. Draining across rear or side lot lines may be permitted provided that drainage onto adjoining properties is skillfully controlled.

(d) **Drainage System Requirements.** The subdivider shall install all the storm drainage facilities indicated on the plans required in Subsection (a) of this Section.

(1) Street Drainage. All streets shall be provided with an adequate storm drainage system. The street storm system shall serve as the primary drainage system and shall be designed to carry street, adjacent land and building storm water drainage. No storm water shall be permitted to be run into the sanitary sewer system within the proposed subdivision.

(2) Off-Street Drainage. The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the subdivider shall make provisions for dedicating an easement of the City to provide for the future maintenance of said system. Easements shall be a minimum of twenty (20) feet, but the City may require larger easements if more area is needed due to topography, size of watercourse, etc.

(e) **Protection of Drainage Systems.** The subdivider shall adequately protect all ditches to the satisfaction of the Common Council and City Engineer. Ditches and open channels shall be seeded, sodded or paved depending upon grades and soil types. (Generally ditches or channels with grades up to one percent [1%] shall be seeded; those with grades up to four percent [4%] shall be sodded and those with grades over four percent [4%] shall be paved.)

SEC. 14-1-13 EXTRA-SIZE OR OFF-SITE IMPROVEMENTS.

(a) **Design Capacity.** All improvements shall be installed to satisfy the service requirements for the service or drainage area in which the subdivision is located and the improvements shall be of sufficient capacity to handle the expected development of the overall service or drainage area involved.

(b) **Extra-Size Improvements.** Where improvements in excess of the size needed to serve just the proposed subdivision are required, the subdivider shall pay for the total cost of improvements he is required to install to serve his subdivision. The additional costs which result from the extra-size improvement shall be paid for by the City. Thus, when conditions within the whole drainage area will require an eighteen (18) inch sanitary sewer, for example, and a twelve (12) inch sewer will adequately serve the subdivision involved, the subdivider shall construct the eighteen (18) inch utility and bill the City for the difference in material costs between a twelve (12) inch and eighteen (18) inch sewer pipe.

(c) **Off-Site Extensions.** When streets or utilities are not available at the boundary of the proposed subdivision, the City, or its duly authorized representative, shall require, as a prerequisite to approval of a final plat, assurances that such improvement extensions shall be provided as follows:

(1) Extensions of utilities onto the property involved shall be adequate to serve the total development requirements of the service or drainage area. Utilities leaving the property shall be constructed in such a manner as to make their extension practical for servicing the adjacent areas of the service or drainage area.

(2) If the City, or its duly authorized representative, find that extensions across undeveloped areas would not be warranted as a special assessment to the intervening properties or as a governmental expense until some future time, the developer shall be required, if he wishes to proceed with the development, to obtain necessary easements or rights-of-way and construct and pay for such extensions. Such improvements shall be available for connections by subdividers of adjoining land and the subdivider may contract with adjacent property owners and/or subdividers of adjacent land for reimbursement of the oversize and/or off-site improvements constructed.

(d) **Lift Stations.** Where sanitary sewer lift stations and force mains are required to lift sewage to the gravity system, the subdivider shall have plans, profiles and specifications prepared for the installation of such facilities. The installation, inspection, supervision and engineering fees for lift stations and/or force mains shall be paid for by the subdivider unless otherwise determined and agreed upon the Common Council.

SEC. 14-1-14 NON-RESIDENTIAL SUBDIVISIONS.

(a) **General.**
   (1) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provisions as the City may require.
   (2) A non-residential subdivision shall also be subject to all the requirements of site plan approval set forth in the Zoning Code. A non-residential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the City and shall conform to the proposed land use standards established by the Comprehensive Plan, Official Map and Zoning Ordinance.

(b) **Standards.** In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the City that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
   (1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
   (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
   (3) Special requirements may be imposed by the City with respect to street, curb, gutter and sidewalk design and construction.
   (4) Special requirements may be imposed by the City with respect to the installation of public utilities, including water, sewer and storm water drainage.
   (5) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strips when necessary.
   (6) Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

SEC. 14-1-15 REQUIREMENTS AND DESIGN STANDARDS FOR PUBLIC IMPROVEMENTS.

(a) **General Requirements.** The following required improvements shall be installed in accordance with the engineering standards and specifications which have been adopted by the Common Council. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices.

(b) **Guarantee for Installation of Required Improvements.**
   (1) Payment for Installation of Improvements. The required improvements to be furnished and installed by the subdivider, which are listed and described in this Chapter, are to be furnished and installed at the sole expense of the subdivider; provided, however, that in the case of an improvement, the cost of which would by general policy be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the City. If any improvement installed

within the subdivision will be of substantial benefit to land beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such land, to be assessed against the same and in such case the subdivider will be required only to pay for such portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision.

(2) Required Agreement Providing for Proper Installation of Improvements.

a. Prior to installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a written contract with the City requiring the subdivider to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for supervision of details of construction by the City Engineer and grant to the Engineer authority to correlate the work to be done under said contract by any subcontractors authorized to proceed thereunder and with any other work being done or contracted by the City in the vicinity.

b. The agreement shall require the subdivider to make an escrow deposit or in lieu thereof to furnish a performance bond or irrevocable letter of credit, the amount of the deposit and the penal amount of the bond to be equal to one and one quarter (1-1/4) times the Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection.

c. On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plant, and in such event the amount of the deposit or bond shall be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. If the required improvements are not complete within the specified period, all amounts held under performance bond or letter of credit shall be turned over and delivered to the City and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Common Council, at its option, may extend the security period for an additional period not to exceed two (2) years.

d. The time for completion of the work and the several parts thereof shall be determined by the Common Council upon recommendation of the Engineer after consultation with the subdivider.

e. The subdivider shall pay the City for all costs incurred by the City for review and inspection of the subdivision. This would include preparation and review of plans and specifications by the Engineer, Planner and Attorney, as well as other costs of a similar nature.

(c) **Procedure.**

(1) Construction Plans and Specifications. Construction plans for the required improvements conforming in all respects with the standards of the City Engineer and the ordinances of the city shall be prepared at the subdivider's expense by professional engineer who is registered in the State of Wisconsin, and said plans shall contain his seal. Such plans, together with the quantities of construction items, shall be submitted to the City Engineer for his approval and for his estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Simultaneously with the filing of the preliminary plat with the City Clerk-Treasurer or as soon thereafter as practicable, copies of the

construction plans and specifications shall be furnished for the following public improvements:

a. Street Plans and Profiles showing existing and proposed grades, elevations and cross sections of required improvements.
b. Sanitary Sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
c. Storm Sewer and Open Channel plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
d. Water Main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
e. Erosion and Sedimentation Control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation.
f. Planting Plans showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.
g. Additional special plans or information as required by City officials.

(2) Action by the City Engineer. The City Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Code of Ordinances and other pertinent City design standards recommended by the City Engineer and approved by the Common Council. If he rejects the plans and specifications, he shall notify the owner, who shall modify the plans or specifications or both accordingly. When the plans and specifications are corrected, the City Engineer shall approve the plans and specifications for transmittal to the Common Council. The Common Council shall approve the plans and specifications before the improvements are installed.

(3) Construction and Inspection.

a. Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the City Engineer upon receipt of all necessary permits and in accordance with the construction methods of this Chapter.
b. Construction of all improvements required by this Chapter shall be completed within two (2) years from the date of approval of the preliminary plat by the Common Council, unless good cause can be shown for the Common Council to grant an extension.
c. During the course of construction, the City Engineer shall make such inspections as he deems necessary to insure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the City for such inspections. This fee shall be the actual cost to the City of inspectors, engineers and other parties necessary to insure satisfactory work.

(4) "As-Built" Plans. After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made a map showing the actual location of all valves, manholes, stubs, sewers and water mains and such other facilities as the City Engineer shall require. This map shall be in black pencil on tracing paper and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the map shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion.

(d) **Street, Alley and Sidewalk Improvements.** The developer shall construct streets and sidewalks as outlines on the approved plans based on the requirements of Section 14-1-9 and the following:

(1) Grading. With the submittal of the final plat, the subdivider shall furnish drawings which indicate the existing and proposed grades of streets and alleys shown on the plat. Proposed grades will be reviewed by the City Engineer for conformance with City standards and good engineering practice. Street grades require the approved of the Common Council after receipt of the City Engineer's recommendations. After approval of the street grades, the subdivider shall grade the full width of the right-of-way of the streets and alleys proposed to be dedicated, including the vision clearance triangle on corner lots. In cases where an existing street right-of-way is made a part of the plat or abuts the plat, the subdivider shall grade that portion of the right-of-way between the existing pavement and the property line. The bed for the roadways in the street rights-of-way shall be graded to subgrade elevation. The City Engineer shall approve all grading within rights-of-way and said grading shall extend for a sufficient distance beyond the right-of-way to insure that the established grade will be preserved. Where electric and other communications or utilities facilities are to be installed underground, the utility easements shall be graded to within six (6) inches of the final grade by the subdivider, prior to the installation of such facilities; earth fill piles or mounds of dirt or construction materials shall not be stored on such easement areas.

(2) Street and Sidewalk Construction.

a. After sanitary sewer, storm sewer and water utilities have been installed, the subdivider shall construct and dedicate as part of the subdivision, streets and sidewalks, including those adjacent to platted lots in existing street rights-of-way abutting the plat. The subdivider shall surface roadways to the widths prescribed by the Common Council on recommendation of the City Engineer. Construction shall be to City standard specifications for street improvements.

b. The Common Council shall have the option of not requiring the construction of sidewalks within street rights-of-way in cases where it determines, after consultation with the City Engineer, that sidewalks are not necessary because of low density land use and low pedestrian volumes or for access to schools and bus routes or for continuity of existing sidewalk systems or because of a cul-de-sac or loop street pattern. Consideration shall also be given to the pattern of development of adjoining lands and to the possibility of damage to trees.

c. Dedicated walkways shall be improved by the subdivider to a grade and width approved by the City Engineer and with surfacing as required by the Common Council based on the location and the amount and character of use. The subdivider shall submit standard drawings indicating the existing and proposed grades.

(3) Completion of Street and Sidewalk Construction.

a. Prior to any building permits being issued on lands adjacent to streets and/or sidewalks, all street and sidewalk construction shall be completed by the subdivider, approved by the City Engineer and accepted by the Common Council.

b. The City Engineer may issue a waiver of these requirements in unusual or special circumstances such as excessively severe weather conditions, heavy construction temporarily in area or construction material shortages (i.e., cement, asphalt). The issuance of a waiver shall be at the discretion of the City Engineer and shall be based upon the written request of the subdivider.

c. The subdivider requesting a waiver shall present such information and documentation required by the Common Council. The waiver shall be in

written form and shall detail which improvement requirements are temporarily waived and for what period of time.

(e) **Sanitary Sewerage System Design Standards.** There shall be provided a sanitary sewerage system in conformity with the master plan of sewers as approved by the Common Council and/or sewerage district. The subdivider shall install adequate sanitary sewer facilities and connect them to sewer mains subject to specifications and inspection of the City Engineer. The subdivider shall pay all the costs of all sanitary sewer work including the bringing of the sanitary sewer from where it exists to the subdivision in question as well as providing all sanitary sewer work within the subdivision. The cost of providing and installing sewer pipe of sizes larger or at a greater depth than required to serve the area shall be borne by the City, as agreed upon between the land owner and the Common Council prior to approval of the preliminary plat or certified survey map, pursuant to this Chapter. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and standard specifications approved by the City.

(f) **Water Supply System Design Standards.** There shall be provided a water supply system in conformity with the master plan of the water system as approved by the Common Council. The subdivider shall construct water mains in such a manner as to make adequate water service available to each lot within the subdivision. If municipal water service is not available, the subdivider shall make provision for adequate private water systems as specified in applicable ordinances. The City may require the installation of water laterals to the street lot line. The size, type and installation of all public water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the City.

(g) **Storm Water Drainage Facilities.** Pursuant to Section 14-1-11, the subdivider shall provide storm water drainage facilities which may include curb and gutter, catch basins and inlets, storm sewers, road ditches and open channels, as may be required. All such facilities are to be of adequate size and grade to hydraulically accommodate the twenty-five (25) year storm. Storm drainage facilities shall be so designed as to present no hazard to life or property, and the size, type and installation of all storm water drains and sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the City Engineer. The subdivider shall pay all costs of all storm sewer work, except that the subdivider shall not be required to pay for any storm sewers that are required to bring the storm sewers to the subdivision nor shall they be required to install any storm sewers that are more than eighteen (18) inches in diameter.

(h) **Other Utilities.** The subdividers shall cause gas, electrical power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision. No such electrical or telephone service shall be located on overhead poles along the front lot lines unless otherwise allowed due to exceptional topography or other physical barrier. Plans indicating the proposed location of all gas, electrical power and telephone distribution and transmission lines required to service the plat shall be approved by the Common Council and such map shall be filed with the City Clerk-Treasurer.

(i) **Street Lamps.** The subdivider shall install street lamps along all streets proposed to be dedicated of a design compatible with the neighborhood and type of development proposed. Such lamps shall be placed at each street intersection and at such interior block spacing as may be required by the Common Council.

(j) **Street Signs.** The subdivider shall install at the intersections of all streets proposed to be dedicated a street sign of a design specified by the Common Council.

(k) **Material Standards.** All improvements constructed under this Chapter shall be of the standards, where applicable, established by the State Highway Commission's "Standard Specifications for Roads and Bridges." Where the Highway Commission's specifications do not apply, the standards shall be as approved by the City Engineer.

(l) **Improvements Complete Prior to Approval of Final Plat.** Improvements within a subdivision which have been completed prior to application for approval of the final plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements only if the City Engineer shall certify that he is satisfied that the existing improvements conform to applicable standards.

SEC. 14-1-16 EASEMENTS.

(a) **Utility Easements.** The Common Council, on the recommendation of appropriate agencies of the City, shall require utility easements for poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines. It is the interest of this Chapter to protect all established easements so as to assure proper grade, assure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prevent the planting of trees in the easement area.

(b) **Drainage Easements.** Where a subdivision is traversed by a watercourse, drainage way, channel or stream:

(1) There shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or

(2) The watercourse, drainage way, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a storm water easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this Section.

(3) Wherever possible, it is desirable that drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such water course shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than thirty (30) feet.

(c) **Easement Locations.** Such easements shall be at least twelve (12) feet wide and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Common Council that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

SEC. 14-1-17 VARIATIONS AND EXCEPTIONS.

(a) Where, in the judgment of the Common Council, it would be inappropriate to apply literally the provisions of this Chapter because of the proposed subdivision being located outside of the corporate limits or because exceptional or undue hardship would result, the Common Council may waive or modify any requirements to the extent deemed just and proper. Application for any such variance

shall be made in writing by the subdivider at the time when the preliminary plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Common Council in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

(b) The Common Council shall not grant variations or exceptions to the regulations of this Chapter unless it shall make findings based upon the evidence presented to it in each specific case that:
   (1) The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
   (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property;
   (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

(c) Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Chapter or the desirable general development of the community in accordance with the Comprehensive Plan or Zoning Code of the City. A majority vote of the entire membership of the Common Council shall be required to grant any modification of this Chapter, and the reasons shall be entered in the minutes of the Common Council.

(d) The Common Council may waive the placing of monuments, required under Section 236.15(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the subdivider execute a surety bond to insure the placing of such monuments within the time required.

SEC. 14-1-18 ENFORCEMENT, PENALTIES AND REMEDIES.

(a) **Violations.** It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Chapter or the Wisconsin Statutes and no person shall be issued a building permit by the City of Montreal authorizing the building on, or improvement of, any subdivision, land division or replat with the jurisdiction of this Chapter not of record as of the effective date of this Code until the provisions and requirements of this Chapter have been fully met. The City may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin Statutes.

(b) **Penalty.**
   (1) Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit no less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) and the costs of prosecution for each violation, and in default of payment of such forfeiture costs shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.
   (2) Recordation improperly made has penalties provided in Sec. 236.30, Wis. Stats.
   (3) Conveyance of lots in unrecorded plats has penalties provided for in Sec. 236.31, Wis. Stats.

(4) Monuments disturbed or not placed have penalties as provided for in Sec. 236.32, Wis. Stats.

(5) Assessor's plat made under Section 70.27 of the Wisconsin Statutes may be ordered by the City at the expense of the subdivider when a subdivision is created by successive divisions.

(c) **Appeals.** Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in Sections 236.13(5) and 62.23(7)(e)10 to 15 of the Wisconsin Statutes, within thirty (30) days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.

TITLE 15

Building Code

Chapter 1 Building Code
Chapter 2 Grievances Regarding Access to Public Building by Handicapped Persons
Chapter 3 Fair Housing

CHAPTER 1

Building Code

15-1-1 Building Code Established
15-1-2 Building Permits and Inspection
15-1-3 State Uniform Dwelling Code Adopted
15-1-4 Construction Standards; Codes Adopted
15-1-5 New Methods and Materials
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15-1-14 Installation of Smoke- and Heat-Detecting Devices in Multiple Dwelling Units
15-1-15 Fees
15-1-16 Severability
15-1-17 Penalties

SEC. 15-1-1 BUILDING CODE ESTABLISHED.

(a) **Title.** This Chapter shall be known as the "Building Code of the City of Montreal" and will be referred to in this Chapter as "this Code," "this Chapter" or "this Ordinance."

(b) **Purpose.** This Chapter provides certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and/or structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished and regulates the equipment, maintenance, use and occupancy of all such buildings and/or structures. Its purpose is to protect and foster the health, safety and well-being of persons occupying or using such buildings and the general public.

(c) **Scope.** New buildings hereafter erected in, or any building hereafter moved within or into the City, shall conform to all the requirements of this Chapter except as they are herein specifically exempted from part or all of its provisions.

Any alteration, enlargement or demolition of an existing building and any installation therein of electrical, gas, heating, plumbing or ventilating equipment which affects the health or safety of the users thereof or any other persons is a "new building" to the extent of such change. Any existing building shall be considered a "new building" for the purposes of this Chapter whenever it is used for dwelling, commercial or industrial purposes, unless it was being used for such purpose at the time this Chapter was enacted. The provisions of this Chapter supplement the laws of the State of Wisconsin pertaining to construction and use and the Zoning Code of the City and amendments thereto to the date this Chapter was adopted and in no way supersede or nullify such laws and the said Zoning Code.

SEC. 15-1-2 BUILDING PERMITS AND INSPECTION.

(a) **Permit Required.**

(1) General Permit Requirement. No building of any kind shall be moved within or into the City and no new building or structure, or any part thereof, shall hereafter be erected, or ground broken for the same, or enlarged, altered, moved, demolished, razed or used within the City, except as herein provided, until a permit therefor shall first have been obtained by the owner, or his authorized agent, from the Building Inspector.

(2) Alterations and Repairs. The following provisions shall apply to buildings altered or repaired:

a. Alterations. When not in conflict with any regulations, alterations to any existing building or structure accommodating a legal occupancy and use but of substandard type of construction, which involves either beams, girders, columns, bearing or other walls, room, heating and air condition systems, arrangement, light and ventilation, changes in location of exit stairways or exits, or any or all of the above, then such existing construction shall be made to conform to the minimum requirements of this Chapter applicable to such occupancy and use and given type of construction.

b. Repairs. Repairs for purposes of maintenance, or replacements in any existing building or structure which do not involve the structural portions of the building or structure or which do not affect room arrangement, light and ventilation, access to or efficiency of any exist stairways, or exits, fire protection, or exterior aesthetic appearance and which do not increase a given occupancy or use, shall be deemed minor repairs.

c. Alterations When Not Permitted. When any existing building or structure, which, for any reason whatsoever, does not conform to the regulations of this Chapter, has deteriorated from any cause whatsoever to an extent greater than fifty percent (50%) of the equalized value of the building or structure, no alterations or moving of such building or structure shall be permitted. Any such building or structure shall be considered a menace to public safety and welfare and shall be ordered vacated and thereafter demolished and debris removed from the premises.

d. Alterations and Repairs Required. When any of the structural members of any building or structure have deteriorated from any cause whatsoever to less than their required strength, the owner of such a building or structure shall cause such structural members to be restored to their required strength; failing in which the building or structure

shall be considered a menace to public safety and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the regulations of this Chapter are complied with.

e. Extent of Deterioration. The amount and extent of deterioration of any existing building or structure shall be determined by the Building Inspector.

(b) **Application.** Application for a building permit shall be made in writing upon a form furnished by the Building Inspector or his designee and shall state the name and address of the owner of the land and also the owner of the building if different, the legal description of the land upon which the building is to be located, the name and address of the designer, the use to which said building is to be put and such other information as the Building Inspector may require.

(c) **Site Plan Approval.**

(1) Site Plan Approval. All applications for building permits for any construction, reconstruction, expansion or conversion, except for one (1) and two (2) family residences in residentially zoned districts shall require site plan approval by the Common Council in accordance with the requirements of this Section. The applicant shall submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Common Council or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.

(2) Administration. The Building Inspector shall make a preliminary review of the application and plans and refer them along with a report of his findings to the Common Council. The Common Council shall review the application and may refer the application and plans to one (1) or more expert consultants selected by the Common Council to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within thirty (30) days of its receipt of the application, the Common Council shall authorize the Building Inspector to issue or refuse a building permit.

(3) Requirements. In acting on any site plan, the Common Council shall consider the following:

a. The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.

b. The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading; and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.

c. The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.

d. The landscaping and appearance of the completed site. The Common Council may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns, and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent of purposes of this Section.

(4) Effect on Municipal Services. Before granting any site approval, the Common Council may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Building Inspector or other municipal officials, with special attention to the effect of such approval

upon existing municipal services and utilities. Should additional facilities be needed, the Common Council shall not issue the final approval until the City has entered into an agreement with the applicant regarding the development of such facilities.

(5) Appeals. Denials of building permits continent upon site plan approval may be appealed to the Zoning Board of Appeals by filing a notice of appeal with the City Clerk-Treasurer within ten (10) days of the denial.

(d) **Dedicated Street and Approved Subdivision Required.** No building permit shall be issued unless the property on which the building is proposed to be built abuts a street that has been dedicated for street purposes. No building permits shall be issued until the subdivision and required improvements are accepted by the Common Council.

(e) **Utilities Required.**

(1) Residential Buildings. No building permit shall be issued for the construction of any residential building until sewer, water, grading and graveling are installed in the streets necessary to service the property for which the permit is required and a receipt for payment of electrical hookup is presented to the Building Inspector.

(2) Non-Residential Building. No building permit shall be issued for the construction of any building other than residential until contracts have been let for the installation of sewer, water, grading and graveling in the streets necessary to service the property for which the permit is requested.

(3) Occupancy. No person shall occupy any building until sewer, water, grading and graveling are installed in the streets necessary to service the property and a certificate of occupancy shall not be issued until such utilities are available to service the property.

(f) **Plans.** With such application, there shall be submitted two (2) complete sets of plans and specifications, including a plot plan showing the location and dimensions of all buildings and improvements on the lot, both existing and proposed, dimensions of the lot, dimensions showing all setbacks of all buildings on the lot, proposed grade of proposed structure (to City datum), grade of lot and of the street abutting lot, grade and setback of adjacent buildings (if adjacent lot is vacant, submit elevation of nearest buildings on same side of street), type of monuments at each corner of lot, water courses or existing drainage ditches, easements or other restrictions affecting such property, seal and signature of surveyor or a certificate signed by the applicant and a construction erosion control plan setting forth proposed information and procedures needed for control of soil erosion, surface water runoff and sediment disposition at the building site. One (1) plan shall be submitted which shall remain on file in the office of the Building Inspector. All plans and specifications shall be signed by the designer. Plans for all new one (1) and two (2) family dwellings shall comply with the provisions of Chapter ILHR 20.09(4), Wis. Adm. Code.

(g) **Waiver of Plans; Minor Repairs.**

(1) Waiver. If the Building Inspector finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations, repairs or moving, provided the cost of such work does not exceed Two Thousand Dollars ($2,000.00).

(2) Minor Repairs. The Building Inspector may authorize minor repairs or maintenance work on any structure or to heating, ventilating or air conditioning systems installed therein valued at less than One Thousand Dollars ($1,000.00), as determined by the Building Inspector, which do not change the occupancy area, exterior aesthetic appearance, structural strength, fire protection, exits, light or ventilation of the building or structure without issuance of a building permit.

(h) **Approval of Plans.**
(1) If the Building Inspector determines that the building will comply in every respect with all Ordinances and orders of the City and all applicable laws and orders of the State of Wisconsin, he shall issue a building permit which shall state the use to which said building is to be put, which shall be kept and displayed at the site of the proposed building. After being approved, the plans and specifications shall not be altered in any respect which involves any of the above-mentioned Ordinances, laws or orders, or which involves the safety of the building or the occupants, except with the written consent of the Building Inspector.
(2) In case adequate plans are presented for part of the building only, the Building Inspector, at his discretion, may issue a permit for that part of the building before receiving the plans and specifications for the entire building.

(i) **Inspection of Work.** The builder shall notify the Building Inspector when ready for inspections and the Building Inspector shall inspect within two (2) business days after notification all buildings at the following states of construction:
(1) Footings and foundation. Prior to pouring of the foundation, the builder shall supply an adequate site plan;
(2) General framing, rough electrical, plumbing and heating;
(3) Insulation; and
(4) Completion of the structure.
If he finds that the work conforms to the provisions of this Chapter, he shall issue a certification of occupancy which shall contain the date and the result of such inspection, a duplicate of which shall be filed in the office of the Building Inspector.

(j) **Permit Lapses.** A building permit shall lapse and be void unless building operations are commenced within six (6) months or if construction has not been completed within one (1) year from the date of issuance thereof.

(k) **Revocation of Permits.**
(1) The Building Inspector may revoke any building, plumbing or electrical permit, certificate of occupancy, or approval issued under the regulations of this Chapter and may stop construction or use of approved new materials, equipment, methods of construction, devices or appliances for any of the following reasons:
a. Whenever the Building Inspector shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the holder of the permit refused to conform after written warning or construction has been issued to him.
b. Whenever the continuance of any construction becomes dangerous to life or property.
c. Whenever there is any violation of any condition or provisions of the application for permit or of the permit.
d. Whenever, in the opinion of the Building Inspector, there is inadequate supervision provided on the job site.
e. Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, data specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
f. Whenever there is a violation of any of the conditions of an approval or occupancy given by the Building Inspector for the use of all new materials, equipment, methods or construction devices or appliances.
(2) The notice revoking a building, plumbing or electrical certificate of occupancy or approval shall be in writing and may be served upon the

applicant of the permit, owner of the premises and his agent, if any, and on the person having charge of construction.

(3) A revocation placard shall also be posted upon the building, structure, equipment or premises in question by the Building Inspector.

(4) After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this Chapter, shall be procured and fees paid therefor, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Chapter. However, such work as the Building Inspector may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he may require for the preservation of life and safety.

(l) **Report of Violations.** City officers shall report at once to the Building Inspector any building which is being carried on without a permit as required by this Chapter.

(m) **Display of Permit.** Building permits shall be displayed in a conspicuous place on the premises where the authorized building or work is in progress at all times during construction or work thereon.

SEC. 15-1-3 STATE UNIFORM DWELLING CODE ADOPTED.

(a) **State Code Adopted.** The administrative code provisions describing and defining regulations with respect to one (1) and two (2) family dwellings in Chapters ILHR 20 through 25 of the Wisconsin Administrative Code are hereby adopted and by reference made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by an Administrative Code provision incorporated herein by reference is required or prohibited by this Chapter. Any future amendments, revisions or modifications of the Administrative Code provisions incorporated herein are intended to be made part of this Chapter to secure uniform statewide regulation of one (1) and two (2) family dwellings in this City. A copy of these administrative code provisions and any future amendments shall be kept on file in the City Clerk-Treasurer's Office.

(b) **Existing Buildings.** The "Wisconsin Uniform Dwelling Code" shall also apply to buildings and conditions where:

(1) An existing building to be occupied as a one (1) or two (2) family dwelling, which building was not previously so occupied.

(2) An existing structure that is altered or repaired, when the cost of such alteration or repair during the life of the structure exceeds fifty percent (50%) of the equalized value of the structure, said value to be determined by the City Assessor.

(3) Additions and alterations, regardless of cost, made to an existing building when deemed necessary in the opinion of the Building Inspector shall comply with the requirements of this Chapter for new buildings. The provisions of Section 15-1-2 shall also apply.

(4) Roof Coverings -- Whenever more than twenty-five percent (25%) of the roof covering of a building is replaced in any twelve (12) month period, all roof covering shall be in conformity with applicable Sections of this Chapter.

(5) Additions and alterations -- Any addition or alteration, regardless of cost, made to a building shall be made in conformity with applicable Sections of this Chapter.

(c) **Definitions.**

(1) Addition. "Addition" means new construction performed on a dwelling which increases the outside dimensions of the dwelling.

(2) Alteration. "Alteration" means a substantial change or modification other than an addition or minor repair to a dwelling or to systems involved within a dwelling.

(3) Department. "Department" means the Department of Industry, Labor and Human Relations.

(4) Dwelling. "Dwelling" means:

a. Any building, the initial construction of which is commenced on or after the effective date of this Chapter which contains one (1) or two (2) dwelling units; or

b. An existing structure, or that part of an existing structure, which is used or intended to be used as a one (1) or two (2) family dwelling.

(5) Minor Repair. "Minor repair" means repair performed for maintenance or replacement purposes on any existing one (1) or two (2) family dwelling which does not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection or exterior aesthetic appearance and which does not increase a given occupancy and use. No building permit is required for work to be performed which is deemed minor repair.

(6) One (1) or Two (2) Family Dwelling. "A one (1) or two (2) family dwelling" means a building structure which contains one (1) or separate households intended to be used as a home, residence or sleeping place by an individual or by two (2) or more individuals maintaining a common household to the exclusion of all others.

(7) Person. "Person" means an individual, partnership, firm or corporation.

(8) Uniform Dwelling Code. "Uniform Dwelling Code" means those Administrative Code Provisions and any future amendments, revisions or modifications thereto, contained in the following chapters of the Wisconsin Administrative Code:

Wis. Adm. Code Chapter ILHR 20 -- Administrative and Enforcement
Wis. Adm. Code Chapter ILHR 21 -- Construction Standards
Wis. Adm. Code Chapter ILHR 22 -- Energy Conservation Standards
Wis. Adm. Code Chapter ILHR 23 -- Heating, Ventilating and Air Conditioning
Wis. Adm. Code Chapter ILHR 24 -- Electrical Standards
Wis. Adm. Code Chapter ILHR 25 -- Plumbing and Potable Water Standards

(d) **Method of Enforcement.**

(1) Certified Inspector Not Provided. The City of Montreal, as a municipality under two thousand five hundred (2,500) in population, shall not contract with or provide a building inspector certified by the Department of Industry, Labor and Human Relations in each category specified under Sec. 26.06, Wis. Adm. Code, and by the Department of Health and Social Services in the category of plumbing for the purpose of enforcing the provisions of the one (1) and two (2) family Uniform Dwelling Code adopted in this Chapter. However, private individuals may, at their own expense, contract with a certified building inspector through DILHR for inspection services.

(2) Inspection Powers. An authorized inspection official of the City may, at all reasonable hours, enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or

refuse to permit access to any such premises to such inspector while in performance of his duties.

SEC. 15-1-4 CONSTRUCTION STANDARDS; CODES ADOPTED.

(a) **Portions of State Building Code Adopted.** Chapters ILHR 50 through ILHR 64, Wis. Adm. Code (Wisconsin State Building Code) are hereby adopted and made a part of this Chapter with respect to those classes of buildings to which this Building Code specifically applies. Any future amendments, revisions and modifications of said Chs. 50 to 64 incorporated herein are intended to be made a part of this Code. A copy of said Chs. 50 to 64 and amendments thereto shall be kept on file in the office of the Building Inspector.

(b) **State Plumbing Code Adopted.** The provisions and regulations of Ch. 145, Wis. Stats., and Wis. Adm. Code Chs. H 81, H 82, H 83 and ILHR 25 are hereby made a part of this Chapter by reference and shall extend over and govern the installation of all plumbing installed, altered or repaired in the City. Any further amendments, revisions and modifications of said Wisconsin Statutes and Administrative Code herein are intended to be made part of this Chapter.

(c) **State Electrical Code Adopted.**

(1) Wis. Adm. Code ILHR 24 is hereby adopted by reference and made a part of this Chapter and shall apply to the construction and inspection of new one (1) and two (2) family dwellings and additions or modifications to existing one (1) and two (2) family dwellings.

(2) Subject to the exceptions set forth in this Chapter, the Electrical Code, Volume 1, and Rules of Electrical Code, Volume 2, of the Wisconsin Administrative Code are hereby adopted by reference and made a part of this Section and shall apply to all buildings, except those covered in Subsection (1) above.

(d) **Conflicts.** If, in the opinion of the Building Inspector and the Common Council, the provisions of the State Building Code adopted by Subsection (a) of this Section shall conflict with the provisions of the Federal Housing Administration standards in their application to any proposed building or structure, the Inspector and/or the City shall apply the most stringent provisions in determining whether or not the proposed building meets the requirements of this Section.

SEC. 15-1-5 NEW METHODS AND MATERIALS.

(a) All materials, methods of construction and devices designed for use in buildings or structures covered by this Section and not specifically mentioned in or permitted by this Section shall not be so used until approved in writing by the State Department of Industry, Labor and Human Relations for use in buildings or structures covered by the Wisconsin State Building Code, except sanitary appliances, which shall be approved in accordance with the State Plumbing Code.

(b) Such materials, methods of construction and devices, when approved, must be installed or used in strict compliance with the manufacturer's specifications and any rules or conditions of use established by the State Department of Industry, Labor and Human Relations. The data, test and other evidence necessary to prove the merits of such material, method of construction or device shall be determined by the State Department of Industry, Labor and Human Relations.

SEC. 15-1-6 UNSAFE BUILDINGS.

Whenever the Building Inspector and Common Council find any building or part thereof within the City to be, in their judgment, so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human occupancy or use and so that it would be unreasonable to repair the same, they shall order the owner to raze and remove such building or part thereof or, if it can be made safe by repairs, to repair and make safe and sanitary, or to raze and remove at the owner's option. such order and proceedings shall be as provided in Sec. 66.05, Wis. Stats.

SEC. 15-1-7 DISCLAIMER ON INSPECTIONS.

The purpose of the inspections under this Chapter is to improve the quality of housing in the City. The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed, as a guarantee. In order to so advise owners and other interested persons, the following disclaimer shall be applicable to all inspections under this Chapter: "These findings of inspection contained herein are intended to report conditions of noncompliance with code standards that are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and nonstructural elements of the building and premises. No warranty of the operation, use or durability of equipment and materials not specifically cited herein is expressed or implied."

SEC. 15-1-8 GARAGES.

Private garages shall be built in accordance with the general construction standards established in the Wisconsin Uniform Dwelling Code.

SEC. 15-1-9 REGULATION AND PERMIT FOR RAZING BUILDINGS.

(a) No building within the City of Montreal shall be razed without a permit from the Building Inspector. A snow fence or other approved barricade shall be provided as soon as any portion of the building is removed and shall remain during razing operations. After all razing operations have been completed, the foundation shall be filled at least one (1) foot above the adjacent grade, the property raked clean, and all debris hauled away. Razing permits shall lapse and be void unless the work authorized thereby is commenced within six (6) months from the date thereof or completed within thirty (30) days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required thirty (30) days must have special approval from the Building Inspector.

(b) All debris must be hauled away at the end of each day for the work that was done on that day. No combustible material shall be used for backfill, but shall be hauled away. There shall not be any burning of materials on the site of the razed building. If any razing or removal operation under this Section results in, or would likely result in, an excessive amount of dust particles in the air creating a nuisance in the vicinity thereof, the permittee shall take all necessary steps, by use of water spraying or other appropriate means, to eliminate such nuisance. The permittee shall take all necessary steps, prior to the razing of a building, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building as to prevent the

spread and migration of rodents and insects therefrom during and after the razing operations.

SEC. 15-1-10 BASEMENTS; EXCAVATIONS.

(a) **Basement Subflooring.** First floor subflooring shall be completed within sixty (60) days after the basement is excavated.

(b) **Fencing of Excavations.** The owner of any premises on which there exists an opening or excavation which is located in close proximity to a public sidewalk or street right-of-way as to constitute a hazard to pedestrian or vehicular traffic shall erect a fence, wall or railing at least four (4) feet high between such opening or excavation and the public right-of-way.

(c) **Closing of Abandoned Excavations.** Any excavation for building purposes or any uncovered foundation which shall remain open for more than three (3) months shall be deemed abandoned and a nuisance and the Building Inspector shall order that unless the erection of the building or structure on the excavation or foundation shall commence or continue forthwith suitable safeguards shall be provided to prevent accidental injury to children or other frequenters or that the excavation or foundation be filled to grade. Such order shall be served upon the owner of record or the owner's agent, where an agent is in charge of the premises, and upon the holder of an encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or the holder of an encumbrance of record cannot be found, the order may be served by posting it on the premises and make publication in the official newspaper for two (2) consecutive publications at least ten (10) days before the time for compliance stated in the order commences to run. Such time shall be not less than fourteen (14) nor more than twenty (20) days after service. If the owner of the land fails to comply with the order within the time required, the Building Inspector shall cause the excavation or foundation to be filled to grade. The cost of such abatement shall be charged against the real estate and entered on the next succeeding tax roll as a special charge and shall bear interest at a rate established by the Common Council from the date of the report by the Building Inspector on the cost thereof, pursuant to the provisions of Sec. 66.60, Wis. Stats.

SEC. 15-1-11 DISCHARGE OF CLEAR WATERS.

(a) **Discharge.** No person shall cause, allow or permit any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises owned or occupied by said person to discharge into a sanitary sewer.

(b) **Nuisance.** The discharge into a sanitary sewer from any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises is hereby declared to be a public nuisance and a hazard to the health, safety and well-being of the residents of the City and to the protection of the property.

(c) **Groundwater.** Where deemed necessary by the Building Inspector, every house shall have a sump pump installed for the purpose of discharging clear waters

from foundation drains and ground infiltration and where the building is not serviced by a storm sewer shall either discharge into an underground conduit leading to a drainage ditch, gutter, dry well or shall discharge onto the ground surface in such other manner as will not constitute a nuisance as defined herein.

(d) **Storm Water.** All roof drains, surface drains, drains from any mechanical device, gutters, pipe, conduits or any other objects or things used for the purpose of collecting, conducting, transporting, diverting, draining or discharging storm waters shall be discharged either to a storm sewer, a dry well, an underground conduit leading to a drainage ditch or onto the ground surface in such other manner as will not constitute a nuisance as defined herein.

(e) **Storm Sewer Lateral.** Where municipal storm sewers are provided and it is deemed necessary by the property owner and/or the City to discharge clear waters from a parcel of land, a storm sewer lateral shall be installed and connected to the storm sewer main at the expense of the owner.

(f) **Conducting Tests.** If the Building Inspector or his designated agent suspects an illegal clear water discharge as defined by this Chapter or by any other applicable provision of the Wisconsin Administrative Code as it may, from time to time, be amended, he may, upon reasonable notice and at reasonable times, enter the private premises where such illegal clear water discharge is suspected and conduct appropriate tests to determine whether such suspected illegal clear water discharge actually exists.

SEC. 15-1-12 DUPLEX SERVICE CONNECTIONS.

Each unit of a duplex shall have a separate water and sewer services.

SEC. 15-1-13 REGULATIONS FOR MOVING BUILDINGS.

(a) **General Requirements.**

(1) No person shall move any building or structure upon any of the public ways of the City without first obtaining a permit therefor from the Building Inspector and upon the payment of the required fee. Every such permit issued by the Building Inspector for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued.

(2) A report shall be made by City employees with regard to possible damage to trees. The estimated cost of trimming, removal and replacement of public trees, as determined by the City, shall be paid to the City Clerk-Treasurer prior to issuance of the moving permit.

(3) Issuance of moving permit shall further be conditioned on approval of the moving route by the Common Council.

(b) **Continuous Movement.** The movement of buildings shall be a continuous operation during all the hours of the day and at night, until such movement is fully completed. All such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lights shall be kept in conspicuous places at each end of the building during the night.

(c) **Street Repair.** Every person receiving a permit to move a building shall, within one (1) day after said building reaches its destination, report that fact to the Building Inspector, inspect the streets, highways and curbs and gutters over which said building has been moved and ascertain their condition. If the

removal of said building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place them in as good repair as they were before the permit was granted. On the failure of the said permittee to do so within ten (10) days thereafter to the satisfaction of the Common Council, the City shall repair the damage done to such streets and hold the person obtaining such permit and the sureties on his bond responsible for the payment of same.

(d) **Conformance with Code.** No permit shall be issued to move a building within or into the City and to establish it upon a location within the said City until the Building Inspector has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that said building is in a sound and stable condition and of such construction that it will meet the requirements of this Building Code in all respects. A complete plan of all further repairs, improvements and remodeling with reference to such building shall be submitted to the Building Inspector, and he shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this Building Code and that, when the same are completed, the building as such will so comply with said Building Code. In the event a building is to be moved from the City to some point outside the boundaries thereof, the provisions with respect to the furnishing of plans and specifications for proposed alterations to such building may be disregarded.

(e) **Bond.**

(1) Before a permit is issued to move any building over any public way in the City, the party applying therefor shall give a bond to the City of Montreal in a sum to be fixed by the Building Inspector and which shall not be less than One Thousand Dollars ($1,000.00), said bond to be executed by a corporate surety or two (2) personal sureties to be approved by the Common Council or designated agent conditioned upon, among other things, the indemnification to the City for any costs or expenses incurred by it in connection with any claims for damages to any persons or property, and the payment of any judgment together with the costs and expenses incurred by the City in connection therewith arising out of the removal of the building for which the permit is issued.

(2) Unless the Building Inspector, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the exposed excavation, such as to make intrusion upon the premises and the falling into such excavation of children under twelve (12) years of age unlikely, the bond required by Subsection (e)(1) shall be further conditioned upon the permittee erecting adequate barriers and within forty-eight (48) hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the Building Inspector and reasonably adopted or calculated to prevent the occurrences set forth herein.

(f) **Insurance.** The Building Inspector shall require, in addition to said the said bond above indicated, public liability insurance covering injury to one (1) person in the sum of not less than One Hundred Thousand Dollars ($100,000.00) and for one (1) accident in a sum not less than Two Hundred Thousand Dollars ($200,000.00), together with property damage insurance in a sum not less than Fifty Thousand Dollars ($50,000.00), or such other coverage as deemed necessary.

SEC. 15-1-14 INSTALLATION OF SMOKE- AND HEAT-DETECTING DEVICES IN MULTIPLE DWELLING UNITS.

(a) **Smoke-Detector Devices Required.**
   (1) The owner of every premises on which is located more than two (2) dwelling units within the City shall install smoke-detection devices so located as to protect:
      a. The sleeping areas of each dwelling unit; and
      b. All public hallways on the premises; and
      c. All basement and storage areas.
   (2) If sleeping areas are separated, the number of detection devices installed shall be that deemed sufficient by the City Fire Inspector to protect each sleeping area.

(b) **Definitions.** For the purposes of this Chapter, the following words and phrases shall have the following meanings:
   (1) Dwelling Unit. A group of rooms constituting all or part of a dwelling which are arranged, designed, used or intended for use exclusively as living quarters.

(c) **Exemption.** This Chapter shall not apply to owner-occupied single-family dwelling units, owner-occupied mobile homes or premises containing two (2) or less dwelling units.

(d) **Installation and Design Standards.**
   (1) Installation of all devices shall be according to manufacturer's specifications.
   (2) All smoke- and heat-detection devices shall be installed in locations approved by the Fire Inspector as meeting the installation standards of the National Fire Protection Association NFPA Standards pamphlet, #72E, 1974 Edition, and pamphlet #74, 1975 Edition.
   (3) All smoke- and heat-detection devices shall bear the Underwriters' Laboratory seal of approval or Factory Mutual approval. All smoke-detection devices shall meet the Underwriters' Laboratory Standard 217. At least one (1) smoke- or heat-detection device shall be installed for every dwelling unit located so as to protect sleeping areas.
   (4) In premises having multiple-dwelling units, additional devices connected to the building alarm system, if any, shall be installed in every corridor serving one (1) or more dwelling units and on every separate level of the building regardless of whether a sleeping area is located on such level. If a local fire alarm system is not provided or required, detection devices shall be connected to a signal outside of the enclosed area which shall be audible throughout the entire building.
   (5) In premises having multiple dwelling units, in addition to smoke detectors in every living unit, all storage areas shall be protected with heat-sensing devices. These devices shall be connected to the building fire alarm system. If a local fire alarm system is not required, such device shall be connected to a signal outside of the enclosure which will be audible throughout the entire building. Heat-sensing devices shall be installed in place according to good engineering practice, but in no case shall detectors be spaced more than thirty (30) feet on centers and fifteen (15) feet from any wall.
   (6) Heat-sensing devices shall be installed in all furnace, boiler and incinerator rooms in a premises having multiple dwelling units.

(e) **Owner Responsible for Installation of and Maintenance.** The owner of the premises having a multiple dwelling unit shall be responsible for the installation and/or maintenance of smoke- and heat-detection devices required by this

Section unless the Fire Chief is notified in writing by registered mail of the designation of some other authorized, qualified individual to assume that responsibility and approval of this designation is given in writing by said Fire Chief.

(f) **Installation, Time for.** Detection devices required by this Section shall be installed within six (6) months of the effective date of this Section, except that existing premises are not required to install devices which are interconnected to signals outside of the enclosure in which they are placed.

SEC. 15-1-15 BUILDING PERMIT FEES.

The fee for building permits shall be Two Dollars ($2.00) for each One Thousand Dollars ($1,000.00) value of construction, as determined by the Building Inspector, with a minimum fee of Fifteen Dollars ($15.00).

20.2

SEC. 15-1-16 SEVERABILITY.

If any section, clause, provision or portion of this Chapter, or of the Wisconsin Administrative Code adopted by reference, is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

SEC. 15-1-17 PENALTIES AND VIOLATIONS.

(a) Any building or structure hereafter erected, enlarged, altered or repaired or any use hereafter established in violation of the provisions of this Chapter shall be deemed an unlawful building, structure or use. The Building Inspector shall promptly report all such violations to the Common Council and City Attorney who shall bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building or structure or the establishment of such use of buildings in violation of this Chapter or to cause such building, structure or use to be removed and may also be subject to a penalty as provided in general penalty provisions of the Code of Ordinances. In any such action, the fact that a permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the Building Inspector or other City officials constitute a defense. Compliance with the provisions of this Chapter may also be enforced by injunctional order at the suit of the owner or owners of any real estate within the jurisdiction of this Chapter.

(b) (1) If an inspection reveals a noncompliance with this Chapter or the Uniform Dwelling Code, the Building Inspector shall notify the applicant and the owner, in writing, of the violation to be corrected. All cited violations shall be corrected within thirty (30) days after written notification unless an extension of time is granted pursuant to Sec. ILHR 20.10(1)(c), Wis. Adm. Code.

(2) If, after written notification, the violation is not corrected within thirty (30) days, a stop-work order may be served on the owner or his or her representative and a copy thereof shall be posted at the construction site. Such stop-work order shall not be removed except by written notice of the Building Inspector after satisfactory evidence has been supplied that the cited violation has been corrected.

(3) Each day each violation continues after the thirty (30) day written notice period has run shall constitute a separate offense. Nothing in this Chapter shall preclude the City from maintaining any appropriate action to prevent

or remove a violation of any provision of this Chapter or the Uniform Dwelling Code.

(4) If any construction or work governed by the provisions of this Chapter or the Uniform Dwelling Code is commenced prior to the issuance of a permit, double fees shall be charged.

(c) Any person feeling aggrieved by an order or a determination of the Building Inspector may appeal from such order or determination to the Board of Appeals. Those procedures customarily used to effectuate an appeal to the Board of Appeals shall apply.

(d) Except as may otherwise be provided by the Statute or Ordinance, no officer, agent or employee of the City of Montreal charged with the enforcement of this Chapter shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. Any suit brought against any officer, agent or employee of the City as a result of any act required or permitted in the discharge of his duties under this Chapter shall be defended by the legal representative of the City until the final determination of the proceedings therein.

CHAPTER 2

Grievances Regarding Access to Public Buildings by Handicapped Persons

15-2-1 Grievance Procedures Regarding Access to Public Buildings by Handicapped Persons

SEC. 15-2-1 GRIEVANCE PROCEDURES REGARDING ACCESS TO PUBLIC BUILDINGS BY HANDICAPPED PERSONS.

(a) **Statement of Purpose.** The City of Montreal is committed to providing adequate access by handicapped or visually impaired persons to public buildings financed in part by federal revenue sharing. This Section provides for a grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); Section 504 states, in part, that "no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance . . ."

(b) **Complaint Procedure.**

(1) Complaints should be filed with the City Clerk-Treasurer, who has been designated to coordinate Section 504 Compliance.

(2) A complaint should be filed in writing or verbally, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.

(3) A complaint should be filed within thirty (30) days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination occurring before this grievance procedure was in place will be considered on a case-by-case basis.)

(4) An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by an appropriate person designated by the City Clerk-Treasurer who should review the handicapped Requirements Handbook published by the Federal Programs Advisory Service.

(5) A written determination as to the validity of the complaint and description of the resolution, if any, shall be issued by the designated person and a copy forwarded to the complainant no later than thirty (30) days after its filing.

(6) The Section 504 coordinator shall maintain the files and records of the City relating to the complaints filed.

(c) **Appeals.**

(1) The complainant may appeal the decision of the Section 504 coordinator where he or she is dissatisfied with the resolution. The appeal request shall be made within seven (7) days to the City Clerk-Treasurer.

(2) The grievance shall be heard by the Common Council within ten (10) working days after the filing of an appeals request. The grievance shall be heard at the City Hall at a convenient time fixed by the Council. The City Clerk-Treasurer shall give at least three (3) days' written notice to the applicant by first class mail of any such grievance hearing.

(3) Either party to the grievance may be represented, present evidence by testimony or otherwise, cross-examine witnesses and make argument either

in person or by an agent of his or her choosing. Proceedings may, and, upon request of the applicant, shall, be recorded.

(4) The decision of the Common Council on the grievance appeal shall be in writing and shall state the reasons for the decision. The decision of the Council shall be rendered within three (3) working days of the close of the hearing and the Common Council shall immediately upon rendering the decision mail a copy thereof by first class mail to the applicant at the current post office address given in his or her application and record a copy of its determination with the City Clerk-Treasurer.

(d) **Other Remedies.** The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 complaint with the Office of Revenue Sharing, U.S. Department of the Treasury. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies. However, the City believes that resolution of the complaint will be more promptly achieved if the City is able to provide a remedy before the complaint is brought to an external organization.

(e) **Due Process.** This Section shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the City complies with Section 504 and the ORS regulations.

CHAPTER 3

Fair Housing

15-3-1 Statement on Fair Housing
15-3-2 Definitions as Used in This Chapter
15-3-3 Unlawful Practices
15-3-4 Exemptions
15-3-5 Enforcement

SEC. 15-3-1 STATEMENT ON FAIR HOUSING.

It is hereby declared to be the policy of the City of Montreal to assure equal opportunity to all persons to live in adequate housing facilities regardless of race, color, religion, ancestry, national origin, sex, handicap, sexual preference, marital status of persons maintaining a household, lawful source of income, place of birth, or age, and, to that end, to prohibit discrimination in housing by any persons.

State Law Reference: Sec. 66.432, Wis. Stats.

SEC. 15-3-2 DEFINITIONS AS USED IN THIS CHAPTER.

(a) **Dwelling.** Any building, structure, or portion thereof which is occupied as, or designed for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction thereof of any such buildings or structure.

(b) **Family.** One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy and receivers.

(c) **Real Property.** Buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.

(d) **Discrimination/Discriminatory Housing Practice.** Any difference in treatment based upon race, color, religion, sex, sexual preference, ancestry, handicap, marital status, place of birth or national origin; or any act that is unlawful under this Chapter.

(e) **Person.** Individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.

(f) **Owner.** Lessee, sublessee, co-tenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.

(g) **Financial Institution.** Any person as defined herein, engaged in the business of lending money or guaranteeing loans.

(h) **Real Estate Broker/Real Estate Salesman.** Any individual qualified by law, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection

SEC. 15-3-4 EXEMPTIONS.

This Chapter shall not apply to:

(a) A religious organization, association, or society or any nonprofit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy, of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such religion is restricted on account of race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth.

(b) A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members.

(c) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale the exemption granted by this Subsection shall apply only with respect to one such sale within any twenty-four (24) month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or served on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time; provided further, the sale, or rental of any such single-family house shall be excepted from the application of this Chapter only if such house is sold or rented:
    (1) Without the use of any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and
    (2) Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United States Code Section 3604; and
    (3) Without the violation of Section 15-3-3 of this Chapter; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(d) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

SEC. 15-3-5 ENFORCEMENT.

Any person aggrieved by an unlawful practice prohibited by this Chapter may file a complaint with the Common Council within thirty (30) days after the aggrieved person becomes aware of the alleged unlawful practice and in no event more than sixty (60) days after the alleged unlawful practice has occurred. The Common Council or duly authorized representative shall receive each complaint and attempt to resolve each complaint. Failure to achieve a resolution acceptable to both parties and compliance

CHAPTER 3

Fair Housing

15-3-1 Statement on Fair Housing
15-3-2 Definitions as Used in This Chapter
15-3-3 Unlawful Practices
15-3-4 Exemptions
15-3-5 Enforcement

SEC. 15-3-1 STATEMENT ON FAIR HOUSING.

It is hereby declared to be the policy of the City of Montreal to assure equal opportunity to all persons to live in adequate housing facilities regardless of race, color, religion, ancestry, national origin, sex, handicap, sexual preference, marital status of persons maintaining a household, lawful source of income, place of birth, or age, and, to that end, to prohibit discrimination in housing by any persons.

State Law Reference: Sec. 66.432, Wis. Stats.

SEC. 15-3-2 DEFINITIONS AS USED IN THIS CHAPTER.

(a) **Dwelling.** Any building, structure, or portion thereof which is occupied as, or designed for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction thereof of any such buildings or structure.

(b) **Family.** One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy and receivers.

(c) **Real Property.** Buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.

(d) **Discrimination/Discriminatory Housing Practice.** Any difference in treatment based upon race, color, religion, sex, sexual preference, ancestry, handicap, marital status, place of birth or national origin; or any act that is unlawful under this Chapter.

(e) **Person.** Individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.

(f) **Owner.** Lessee, sublessee, co-tenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.

(g) **Financial Institution.** Any person as defined herein, engaged in the business of lending money or guaranteeing loans.

(h) **Real Estate Broker/Real Estate Salesman.** Any individual qualified by law, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection

of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

(i) **Housing Accommodation/Dwelling.** Any building, mobile home or trailer, structure, or portion thereof which is occupied as, or designed, or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any real property, as defined herein, used or intended to be used for any of the purposes set forth in this Subsection.

(j) **Mortgage Broker.** An individual who is engaged in or who performs the business or services of a mortgage broker as defined by Wisconsin Statutes.

(k) **Open Market.** The market which is informed of the availability for sale, purchase, rental or lease of any housing accommodation, whether informed through a real estate broker or by advertising by publication, signs or by any other advertising methods directed to the public or any portion thereof, indicating that the property is available for sale, purchase, rental or lease.

SEC. 15-3-3 UNLAWFUL PRACTICES.

In connection with any of the transactions set forth in this Section which affect any housing accommodation on the open market, or in connection with any public sale, purchase, rental or lease of any accommodation, it shall be unlawful within the City for a person, owner, financial institution, real estate broker or real estate salesman, or any representative of the above, to:

(a) Refuse to sell, purchase, rent or lease, or deny to or withhold any housing accommodation from a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

(b) To discriminate against a person in the terms, conditions or privileges of the sale, purchase, rental or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith; or

(c) To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation from or to a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

(d) To refuse to negotiate for the sale, purchase, rental or lease of any housing accommodation to a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

(e) To represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his race, color, religion, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

(f) To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted, or mailed, any notice, statement or advertisement, or to announce a policy or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to make a discrimination; or

(g) To offer, solicit, accept or use a list of any housing accommodation for sale, purchase, rental or lease with the understanding that a person may be subjected

to discrimination in connection with such sale, purchase, rental or lease, or in the furnishing of facilities or services in connection therewith; or

(h) To induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth in the area to be affected by such sale, purchase, rental or lease will or may result in either:
   (1) The lowering of property values in the area;
   (2) An increase in criminal or antisocial behavior in the area; or
   (3) A decline in the quality of schools serving the area.

(i) To make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing of any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the City for the purpose of inducing or attempting to induce any such listing or any of the above transactions; or

(j) To engage in or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation; or

(k) To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this Chapter, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this Chapter; or

(l) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this Chapter; or to obstruct or prevent any person from complying with the provisions of this Chapter; or any orders issued thereunder; or

(m) By canvassing, to commit any unlawful practices prohibited by this Chapter; or

(n) Otherwise to deny to, or withhold any housing accommodation from, a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

(o) For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part, in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance because of the race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance which is to be made or given; or

(p) To deny any qualified person access to or membership or participation in any multiple-listing service, real estate brokers organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in their terms or conditions of such access, membership, or participation, on account of race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth.

SEC. 15-3-4 EXEMPTIONS.

This Chapter shall not apply to:

(a) A religious organization, association, or society or any nonprofit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy, of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such religion is restricted on account of race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth.

(b) A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members.

(c) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale the exemption granted by this Subsection shall apply only with respect to one such sale within any twenty-four (24) month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or served on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time; provided further, the sale, or rental of any such single-family house shall be excepted from the application of this Chapter only if such house is sold or rented:
    (1) Without the use of any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and
    (2) Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United States Code Section 3604; and
    (3) Without the violation of Section 15-3-3 of this Chapter; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(d) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

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with this Chapter shall cause the Common Council to forward the complaint and findings to appropriate state and federal agencies.