

CITY OF WASHBURN
119 Washington Avenue
P.O. Box 638
Washburn, WI 54891



715-373-6160
715-373-6161
FAX 715-373-6148

This meeting may have members participating via tele or web conferencing. Public participants can listen to the proceedings by utilizing a computer or smart phone and using the link <https://us02web.zoom.us/j/81946092257?pwd=U1pkSjhJSk4rMk5qK1NIVEpXSXRIZz09> or by calling 1 (877) 853-5247 (Toll Free) and entering Webinar ID: 819 4609 2257 and entering passcode **347346** as opposed to being present for the meeting. Limited seating will be available at the meeting and guests are asked to keep a six-foot distance from one another.

NOTICE OF JOINT PLAN COMMISSION AND CITY COUNCIL MEETING

DATE: Thursday, August 18, 2022
TIME: 5:30 PM
PLACE: Washburn City Hall

AGENDA:

- Call to Order/Roll Call
- Approval of Minutes of July 21, 2022
- Public Hearing, Discussion, Plan Commission Recommendation, and Council Action on Conditional Use Permit Application for Non-Conforming Conditional Use – To Allow the Current Non-conforming residential use of the property at 1500 CTH C (Tax ID 32476) to continue as a legal non-conforming use without non-conforming restrictions, Timothy and Jody Compton, Petitioners.
- Public Hearing, Discussion, Plan Commission Recommendation, and Council Action on Zoning Code Amendment -For the purpose of amending the City's Zoning Code (Title 13) Chapter 1, Article 8 to update the regulation of licenses for outdoor consumption of alcoholic beverages
- *Note: At This Point the Council Can Adjourn and the Plan Commission Can Continue*
- Discussion and Action on Special Exception Request to Enlarge a Non-Conforming Structure, 905 N. 10th Avenue West, Carrie Linder Petitioner
- Discussion on Conceptual Ordinance for Off-Premise Signs in Certain Areas of the City
- Continued Discussion and Action on Comprehensive Plan Re-Write Project –Review of Land Use Maps and Policies
- Adjourn

July 21, 2022

CITY OF WASHBURN PLAN COMMISSION MEETING

5:30PM Washburn City Hall & Remote Video Conferencing

COMMISSION MEMBERS: Leo Ketchum-Fish, Mary Motiff, Nicolas Suminski, Dave Anderson, Michael Malcheski, Matt Simoneau- VIA Zoom

ABSENT: Felix Kalinowski,

MUNICIPAL PERSONNEL: Scott Kluver-City Administrator, Tammy DeMars-Treasurer/Deputy Clerk

Meeting called to order at 5:30 pm by Motiff, attendance as recorded above. Also attending was Eric of Northwest Regional Planning-VIA Zoom.

Approval of Minutes – July 19, 2022, Minutes – Motion by Suminski to approve the minutes of July 19, 2022, second by Anderson. Motion carried 6-0.

Continued Discussion and Action on Comprehensive Plan Re-Write Project – Review of Land Use Map –Eric with Northwest Regional Planning Commission continue reviewing the land use policies with the commission. The Parks Committee is working on the Outdoor Recreation section, so Section 5.1 is where we started. Text changes were made to policy no. 5.1.a, 5.1.b, 5.1.c, 5.1.f, 5.2.a 5.2.c., 5.2.f; and 5.2.d, 5.2.g were removed; 5.2.e was separated into two policies. Section 5.3 text changes were made to policy no. 5.3.a, 5.3.b, 5.3c and 5.3.d. Section 6.1 text change were made in all policies, and two new policies were added. Section 6.2 no changes made. Section 6.3 added policy to promote compost site. Section 6.3 Deleted policy 6.4.a, changed text in 6.4.b, 6.4.c and 6.4.d. Section 6.5 text changes to policy no. 6.5.a, 6.5.b, 6.5.d; policy 6.5.e, 6.5.c were deleted. Section 6.6 text changes to 6.6.a, 6.6.e and remove 6.6d. Section 6.7 remove “and responsibility” from the objective, text change to 6.7.a. We will start with 7.1 at our next meeting.

Moved by Malcheski to adjourn. seconded by Anderson. Motion carried 6-0. Meeting adjourned at 8:50pm

Respectfully Submitted,
Tammy DeMars
City Treasurer/Deputy Clerk

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CITY OF WASHBURN
NOTICE OF PUBLIC HEARING

A Public Hearing will be held by the Plan Commission on, Thursday, August 18, 2022, at 5:30 P.M. at City Hall, 119 Washington Avenue, for public comment on the following issue:

Conditional Use Permit Application:

Request for Non-Conforming Conditional Use – To allow the current non-conforming residential use of the property at 1500 CTH C (Tax ID 32476) to continue as a legal non-conforming use without non-conforming restrictions. Timothy and Jody Compton, Petitioners

The property is zoned I-1, Light Industrial. Residents unable to attend the public hearing may provide written comment to the Zoning Administrator prior to the hearing.

Scott J. Kluver
Zoning Administrator

publ.: Class 2 – July 29 and August 5, 2022
Daily Press Box Ad

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CITY OF WASHBURN
NOTICE OF PUBLIC HEARING

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Conditional Use Permit Application:

Request for Non-Conforming Conditional Use – To allow the current non-conforming residential use of the property at 1500 CTH C (Tax ID 32476) to continue as a legal non-conforming use without non-conforming restrictions. Timothy and Jody Compton, Petitioners

The property is zoned I-1, Light Industrial. Residents unable to attend the public hearing may provide written comment to the Zoning Administrator prior to the hearing.

Scott J. Kluver
Zoning Administrator

As required by ordinance, copy mailed to property owners within 150 feet of the subject property.

NOTICES MAILED FIRST CLASS MAIL 07/25/2022

ERIC E & LYNN M ADAMS
30850 HOVE LN
WASHBURN WI 54891

ROBERT G & KAREN K SWANSON
BOX 562
WASHBURN WI 54891

JOHN CHARLES ADAMS
30900 CO HWY C
WASHBURN WI 54891

MICHAEL & REBECCA WORBLEWSKI
1491 CTH C
WASHBURN, WI 54891

RENA LOUISE ARSENEAU
77050 BIG ROCK RD
WASHBURN WI 54891

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715-373-6160
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To: Honorable Mayor and City Council Members and Plan Commission Members

From: Scott J. Kluver, ^{SK} Administrator

Re: Non-Conforming Conditional Use Permit - Compton

Date: July 29, 2022

Enclosed you will find a draft Non-Conforming Conditional Use Permit application for Tim and Jody Compton and their property at 1500 CTH C. The Compton's have resided on this property since the late 1990s, and in addition, there used to be an industrial business at this property that ceased operations around 2005 or so. The property remained zoned industrial, and when the zoning code was amended in 2017, the property was essentially made non-conforming as the previous conditional use permits had expired prior to state law changes and the new code prohibited residential uses outright in the industrial zone.

Recently, the Compton's decided to put their property up for sale, and they had an offer which now has subsequently been released because the property is classified as a non-conforming use which prohibits reconstruction, expansion, or improvements beyond 50 percent of the value of the property under the current code. This is a red flag that essentially prohibits a prospective buyer from obtaining financing to purchase the property.

At a recent Plan Commission meeting, the Compton's requested that the future land use map, which is currently being revised as part of the Comprehensive Plan update, be changed which is the first step needed to rezone the property. The Plan Commission has agreed to propose the change in the new draft, but it would take the remainder of the year to complete the entire process if the Compton's waited to go that route with their request. In reviewing the situation, a never before used provision of the zoning code allows the property owner to petition for a new conditional use permit that would grandfather a non-conforming use and provide the protections of a conditional use permit under current law. Essentially, this would allow the Compton's to seek resolution of their request within a month or two.

A draft conditional use permit is now presented to you to allow the property to be used for residential use, without non-conforming restrictions, should you approve. Both bodies should consider whether or not (1) approval would be adverse to the public health, safety or welfare; (2) approval is keeping with the spirit and intent of this chapter of the code; and (3) that the use would not be otherwise detrimental to the area and in particular the surrounding properties.

After the public hearing on this matter, and any discussion by both bodies, the Plan Commission should take action first on a recommendation to the Council, and then the Council can act upon that recommendation.

You will also find the hearing notices, application, legal opinion, and map included in the packet. Please let me know if you have any advance questions related to this matter.

CITY OF WASHBURN **CONDITIONAL USE PERMIT**

A Nonconforming Conditional Use Permit is hereby granted, pursuant to Title 13, Chapter 1, Article 7, Division 3 of the City of Washburn Zoning Ordinance to Timothy and Jody Compton (hereinafter User), in respect to property currently zoned I-1 Light Industrial, herein referred to as Subject Property, described as:

Street Address: 1500 CTH C

Legal Description: S31 T49N R04W PAR IN NW 1/4 IN V.735 P.105

Tax ID: 32476

PIN: 04-291-2-49-04-31-2 02-000-20000

This Nonconforming Conditional Use Permit is granted for the purpose of permitting the User to engage in the permitted use set forth immediately below:

1. To allow continued use of the property located at 1500 CTH C, in the I-1 Light Industrial District, as a residential use in accordance with Section 13-1-7-55(b) of the City of Washburn Zoning Code.

This Nonconforming Conditional Use Permit is subject to the following special conditions:

1. Issuance of a Conditional Use Permit does not indicate that the City of Washburn has certified the above referenced dwelling nor has it inspected the building, nor does it ensure that it meets local, state, federal, or professional requirements or standards related to the subject use.
2. This permit shall remain in effect so long as the permit holder complies with all conditions of this permit and applicable City of Washburn ordinances.

Statement on the nature of the approval:

In approving this Nonconforming Conditional Use Permit, the Plan Commission confirmed the use will not be adverse to the public health, safety, or welfare; the use is in keeping with the spirit and intent of this chapter; and the use would not be otherwise detrimental to the area and in particular the surrounding properties. The Common Council adopts these findings.

Appeal rights for applicant and other aggrieved persons:

Within 30 days of the decision date, a written appeal, including the reasons for the appeal, must be received by the City Clerk. The appeal process will follow the procedure outlined in 13-1-7-23 of the zoning ordinance.

Timothy Compton

Date

Jody Compton

Date

Personally came before me this ____ day of _____, 2022, the above-named Timothy and Jody Compton, to me known to be the persons who executed for the foregoing instrument and acknowledge the same.

Notary Public, Bayfield County, Wisconsin

My commission expires: _____

Mary D. Motiff, Mayor
City of Washburn

Date

Personally came before me this ____ day of _____, 2022, the above-named Mary D. Motiff, known to be the person who executed for the foregoing instrument and acknowledge the same.

Notary Public, Bayfield County, Wisconsin

My commission expires: _____

Scott J. Kluver, Zoning Administrator
City of Washburn

Date

Personally came before me this ____ day of _____, 2022, the above-named Scott J. Kluver, known to be the person who executed for the foregoing instrument and acknowledge the same.

Notary Public, Bayfield County, Wisconsin

My commission expires: _____

ANICH, WICKMAN & LINDSEY, S.C.

ATTORNEYS AT LAW
220 SIXTH AVENUE WEST
POST OFFICE BOX 677
ASHLAND, WISCONSIN 54806-0677
TELEPHONE (715) 682-9114
FAX NO. (715) 682-9504

MATTHEW F. ANICH
TYLER W. WICKMAN
MAX T. LINDSEY
ROBERT E. EATON

July 20, 2022

City of Washburn Plan Commission

RE: Residential Property at 1500 County Highway C

Dear Plan Commission Members:

This letter is in response to a request for a legal opinion regarding the existing residence located at 1500 County Highway C. Since that property is currently zoned industrial, the residential building is a structure housing a nonconforming use and is subject to restrictions on expansion, improvement, and rebuilding. I have been requested to advise if and how the property owner could avoid these limitations on continuation and expansion of the residential use.

After reviewing this issue with Zoning Administrator Kluver, we have determined that the best route forward would be for the owner to proceed pursuant to § 21-6 (p.281) of the City's zoning code. This section allows the owner of a nonconforming use to submit an application seeking to authorize the nonconforming use instead as a conditional use, even though such use is not listed in the land use matrix for the particular zone in question. Applications for conversion of a nonconforming use to a nonconforming conditional use are governed by the general standards in Article 7, Division 3 of the zoning code, and more specifically Section 7-55(b). This section provides that the application for nonconforming conditional use must meet three factors:

- 1) The nonconforming use will not be adverse to the public health, safety, or welfare
- 2) The nonconforming use is in keeping with the spirit and intent of this chapter
- 3) The nonconforming use would not be otherwise detrimental to the area and in particular the surrounding properties.

If the applicant satisfies all three of these conditions, then the application should be approved and the nonconforming use would be redesignated as a nonconforming conditional use. Upon approval as a nonconforming conditional use, the building expansion and rebuilding limitations placed upon the residential structure as a nonconforming use would no longer apply.

I have attached the cited provisions of the zoning code for your review.

Yours truly,
ANICH, WICKMAN & LINDSEY, S.C.
/s/
Max T. Lindsey

cc: Scott Kluver
Faith Mauritz



Conditional Use City of Washburn

Version: May 25, 2017

WASHBURN CITY HALL
119 Washington Avenue
Washburn, WI 54891

Overview: The City's zoning code identifies land uses that may be allowed in each of the zoning districts either by right or as a conditional use. By definition, a conditional use is a land use that may or may not be appropriate on a given parcel depending on a wide range of factors that relate to the proposed use and the particular circumstances relating to the parcel and surrounding properties. Conditional uses are therefore considered on a case-by-case basis. The Plan Commission conducts a public hearing to solicit input from the general public and other interested parties. When reviewing conditional use applications, the Plan Commission serves in an advisory capacity to the Common Council, which makes the final decision. The recommendation of the Plan Commission and the decision of the Common Council are based on the evidence and testimony received as part of the application and through the public hearing process.

Governing regulations: The procedures and standards governing the review of this application are found in Article 7 of the City's zoning code.

General instructions: Complete this application and submit one copy to the City Clerk at the mailing address shown above. Before you formally submit your application, you may meet with the City Administrator who can answer any questions you may have. You may also ask the City Administrator to review your application before it is formally submitted to determine if it is complete and provides enough information to describe the circumstances related to this application. If you have any questions, do not hesitate to contact the City Administrator at (715) 373-6160 ext 4 or via e-mail at washburnadmin@cityofwashburn.org.

Office Use Only

Date Received: _____

Received By: _____

Fee Paid: _____

1. **Applicant and agent information** Include the names of the agent, if any, that helped prepare this application including the supplemental information. Examples include surveyors, engineers, landscape architects, architects, planners, and attorneys.

	Applicant	Agent
Name	Timothy R Compton & Jody L Compton	
Street address	1500 County Highway C	
City, state, zip code	Washburn, WI 54891	
Daytime telephone	715-209-5670	
E-mail address	ccc11842002@yahoo.com	

2. **Type of application (select one)**

- ☒ New conditional use
☐ An amendment of a previously approved conditional use

3. **Proposed use.** Describe the proposed conditional use or amendment in detail.

Residential

4. Subject property information

Physical address 1500 Country Hy C.

Tax key number(s) 32476

Note: The tax key number can be found on the tax bill for the property or it may be obtained from the City Clerk.

Is the subject property currently in violation of the City's zoning code as determined by the zoning administrator?

☐ No

☒ Yes

If yes, please explain.

It's a nonconforming use

Comment: Pursuant to Section 6-10 of the City's zoning code, the City may not issue a permit or other approval that would benefit a parcel of land that is in violation of the zoning code, except to correct the violation or as may be required by state law.

Are there any unpaid taxes, assessments, or other required payment that are specifically related to the subject property?

☒ No

☐ Yes

If yes, please explain.

Comment: Pursuant to Section 6-11 of the City's zoning code, the City may not issue a permit or other approval that would benefit a parcel of land where taxes, assessments, or other required payments are delinquent and due.

Are there any buildings on the subject property?

☐ No

☒ Yes

Will the proposed conditional use be located in an existing building or a new building?

☐ Existing building

☐ Proposed building

☒ NA

If the conditional use will be in an existing building, is that building classified as "conforming" or "nonconforming?" A nonconforming building does not meet the dimensional requirements for the district in which it is located.

☒ Conforming building

☐ Nonconforming building

If nonconforming, please explain.

Has the City approved a variance or special exception for the subject property?

☒ No

☐ Yes

If yes, provide the year of issuance and a short description for each one.

5. Zoning information. The subject property is located in the following zoning district(s). (check all that apply)

- | | | |
|---|--|---|
| <input type="checkbox"/> R-1 Rural residential | <input type="checkbox"/> C-1 Cottage commercial | <input type="checkbox"/> MUW Mixed-use waterfront |
| <input type="checkbox"/> R-2 Suburban residential | <input type="checkbox"/> C-2 General commercial | <input type="checkbox"/> L-1 Lakefront |
| <input type="checkbox"/> R-6 Mixed residential | <input type="checkbox"/> C-3 Downtown commercial | <input type="checkbox"/> M Marina |
| <input type="checkbox"/> R-7 Waterfront residential | | <input checked="" type="checkbox"/> I Industrial |

6. Adjoining land uses and zoning

	Zoning classification	Current uses
North	R-1	
South	I	
East	I	
West		

7. Evaluation criteria. The factors listed below will be used in evaluating this application. Your responses are important.

1. The size of the parcel on which the proposed use will occur

13 ACRES

2. The presence of and compatibility with other uses on the subject property, if any

ITS has been our Residents since 1998

3. The location of the proposed use on the subject property (e.g., proximity of the proposed use to other existing or potential land uses)

The property is Adjacent To Other Residential & Industrial Properties

4. Effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on-site and off-site

There would not be any ~~more~~ change in Traffic since 2004

5. The suitability of the subject property for the proposed use

Residential use has been primary use
since 2004

6. Effects of the proposed use on the natural environment

NO KNOWN IMPACT ON ENVIRONMENTAL

7. Effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances

There would NO change of impact on surrounding
properties

8. Effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts

NO KNOWN EFFECTS ON DEVELOPMENT OF OTHER PROPERTIES

9. Any other factor not listed above, but which relates to the public health, safety, or welfare

Allow for ~~contingent~~^{invest} use of a Residential structure
within the city

8. **Project map.** Attach a project map. It can consist of a single page or multiple pages depending on the complexity of the features that need to be depicted.

The following items need to be included as appropriate to the project.

Background Project Information

- Project name
- Applicant name
- Preparation date

Survey Information

- North arrow and graphic scale
- Address of subject property or legal description
- Property boundaries
- Acreage of subject property

Project Development Information

- Easements/rights-of-ways (location, width, purpose, ownership)
- Common areas/conservancy areas (location, purpose, ownership)

Setting

- Property boundaries within 150 feet of the subject property
- Land uses within 150 feet of the subject property
- Zoning district boundaries within 150 feet of the subject property
- Municipal boundaries within 150 feet of the subject property

Site Features (existing and proposed)

- Ground contours when any slope exceeds 10 percent
- Wetlands
- Woodlands
- Wildlife habitat, including critical wildlife habitat
- Environmentally sensitive features
- Water resources (rivers, ponds, etc.)
- Floodplain boundaries
- Environmental and manmade development constraints and hazards including brownfields, contaminated sites, unstable soils, high groundwater, bedrock, and high-pressure natural gas lines

Landscaping Features (existing and proposed)

- Fences, buffers, and berms
- Pervious and impervious surfaces by type
- Existing trees and other prominent vegetation

Transportation Facilities (existing and proposed)

- Streets
- Driveways and road access onto public and private roads
- Sidewalks / trails

Buildings and Outdoor Storage/Activity Areas footprint, use, etc.)

- Existing and proposed
- Existing within 150 feet of subject property

Required Setbacks

- Yard setbacks (front, side, rear and shore)
- On-site septic systems
- On-site wells and off-site wells within 10 feet of the perimeter of the subject property

9. **Attachments.** List any attachments included with your application.

10. **Other information.** You may provide any other information you feel is relevant to the review of your application.

11. Applicant certification

- I certify that all of the information in this application, along with any attachments, are true and correct to the best of my knowledge and belief.
- I understand that submission of this application authorizes city officials, Plan Commission members, Common Council members, employees, and other designated agents to enter the property to conduct whatever site investigations are necessary to review this application. This does not authorize any such individual to enter any building on the subject property, unless such inspection is specifically related to the review of this application and the property owner gives his or her permission to do so.
- I understand that this application and any written materials relating to this application will become a permanent public record and that by submitting this application I acknowledge that I have no right to confidentiality. Any person has the right to obtain copies of such written materials or view it online.
- I understand that the zoning administrator will review this application to determine if it contains all of the required information. If he or she determines that the application is incomplete, it will not be scheduled for review until it is deemed to be complete.

Property Owner Signature(s):

Date:

Timothy R. Conroy

7/21/2022

Jackie J. Compton

7/21/2022

exceed 4 years. In the event the Common Council rescinds an approval, the Common Council shall at that time reclassify undeveloped lands in the district based on the zoning regulations in effect at that time. Developed portions of the planned development district may either be allowed to retain the planned development district designation or reclassified based on the zoning regulations in effect at that time.

7-38 to 7-50 Reserved

DIVISION 3 CONDITIONAL USE

Sections

7-51	Generally	7-58	Staff report content
7-52	Applicability	7-59	Content of decision document
7-53	Initiation	7-60	Effect of approval
7-54	Review procedure	7-61	Expiration of an approval
7-55	Basis of decision	7-62	Amendment of an approved conditional use
7-56	Imposition of conditions		
7-57	Application form and content		

7-51 Generally

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as conditional uses. This division describes the requirements and procedures for reviewing a conditional use, including an amendment of an approved conditional use.

7-52 Applicability

Those land uses designated as conditional uses in the land-use matrix (Exhibit 8-1) must comply with the requirements in this division.

7-53 Initiation

The owner of the subject property may submit an application for the establishment of a conditional use.

7-54 Review procedure

The general steps outlined below shall be used in the review of an application for a conditional use.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (i) applicable regulations and procedures, (ii) applicable sections of the City's comprehensive plan, and (iii) the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the City's zoning requirements.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Common Council.
- (3) **Staff review.** Within 30 calendar days of submittal, the zoning administrator shall either schedule a date for the public hearing with the Plan Commission allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 3 months to complete the application or forfeit the application fee. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.

- (19) **Recording of decision document.** If the property owner returns the decision document within the required time period with the required signatures, the zoning administrator shall record the decision document against the subject property in the office of the Bayfield County register of deeds.
- (20) **Administrative steps.** If the conditional use is approved and the zoning administrator has created a map showing conditional uses, the zoning administrator shall add the conditional use to that map.

7-55 Basis of decision

(a) **Generally.** When reviewing conditional uses other than nonconforming conditional uses, the Plan Commission in making its recommendation and the Common Council in making its decision shall consider the following factors:

- (1) the size of the parcel on which the proposed use will occur;
- (2) the presence of and compatibility with other uses on the subject property, if any;
- (3) the location of the proposed use on the subject property (e.g., proximity of the proposed use to other existing or potential land uses);
- (4) effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
- (5) the suitability of the subject property for the proposed use;
- (6) effects of the proposed use on the natural environment;
- (7) effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
- (8) effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts; and
- (9) any other factor that relates to the purposes of this chapter set forth in s. 1-5 or as allowed by state law.

(b) **Nonconforming conditional uses.** When reviewing nonconforming conditional uses, the Plan Commission in making its recommendation and the Common Council in making its decision shall make the following determinations:

- (1) The nonconforming use will not be adverse to the public health, safety, or welfare.
- (2) The nonconforming use is in keeping with the spirit and intent of this chapter.
- (3) The nonconforming use would not be otherwise detrimental to the area and in particular the surrounding properties.

The Common Council shall grant approval for a nonconforming conditional use only if the council can make an affirmative finding for all of the criteria listed in this subsection.

7-56 Imposition of conditions

(a) **Generally.** The Plan Commission may recommend and the Common Council may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, or general welfare.

(b) **Condition may not lessen any requirement.** A condition of approval shall not lessen a development standard or other requirement contained in this chapter.

(c) **Special consideration for solar panels.** In those instances where a solar panel is classified as a conditional use, the reviewing authority may impose one or more conditions of approval, provided the condition satisfies one of the following:

- (1) The condition serves to preserve or protect the public health or safety.
- (2) The condition does not significantly increase the cost of the system or significantly decrease its efficiency.

- (6) other information the Common Council or zoning administrator deems appropriate,
- (7) the signature of the zoning administrator on behalf of the Common Council, and
- (8) the date of the decision.

7-60 Effect of approval

Unless otherwise specified in the conditional use order, approvals are personal to the property owner meaning the approval automatically lapses when the property owner ceases to own the property.

7-61 Expiration of an approval

(a) **Non-establishment of use.** If the zoning administrator determines that substantial work as authorized by a conditional use approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 18 of this article. Upon written petition and with cause, the zoning administrator may grant a one-time extension not to exceed 6 months provided (i) the permit holder requests the extension prior to the expiration of the approval, (ii) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (iii) the project complies with this chapter in effect at the time the extension is granted.

(b) **Cessation of use.** If the zoning administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 18 of this article.

7-62 Amendment of an approved conditional use

Following approval of a conditional use, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

7-63 to 7-70 Reserved

DIVISION 4 SITE PLAN

Sections	
7-71	Generally
7-72	Applicability
7-73	Initiation
7-74	Review procedure
7-75	Basis of decision
7-76	Imposition of conditions
7-77	Application form and content
7-78	Staff report content
7-79	Content of decision document
7-80	Effect of approval
7-81	Expiration of an approval
7-82	Amendment of an approved site plan

7-71 Generally

The way in which a land use occupies a lot has a direct effect on the overall functionality of the site, the extent to which the land use can be expanded on the site in the future, effects of the land use on nearby properties, and impacts on existing and anticipated public and private infrastructure. This division describes the requirements and procedures for reviewing site plans.

exceed 4 years. In the event the Common Council rescinds an approval, the Common Council shall at that time reclassify undeveloped lands in the district based on the zoning regulations in effect at that time. Developed portions of the planned development district may either be allowed to retain the planned development district designation or reclassified based on the zoning regulations in effect at that time.

7-38 to 7-50 Reserved

**DIVISION 3
CONDITIONAL USE**

Sections

7-51	Generally	7-58	Staff report content
7-52	Applicability	7-59	Content of decision document
7-53	Initiation	7-60	Effect of approval
7-54	Review procedure	7-61	Expiration of an approval
7-55	Basis of decision	7-62	Amendment of an approved conditional use
7-56	Imposition of conditions		
7-57	Application form and content		

7-51 Generally

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as conditional uses. This division describes the requirements and procedures for reviewing a conditional use, including an amendment of an approved conditional use.

7-52 Applicability

Those land uses designated as conditional uses in the land-use matrix (Exhibit 8-1) must comply with the requirements in this division.

7-53 Initiation

The owner of the subject property may submit an application for the establishment of a conditional use.

7-54 Review procedure

The general steps outlined below shall be used in the review of an application for a conditional use.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (i) applicable regulations and procedures, (ii) applicable sections of the City's comprehensive plan, and (iii) the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the City's zoning requirements.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Common Council.
- (3) **Staff review.** Within 30 calendar days of submittal, the zoning administrator shall either schedule a date for the public hearing with the Plan Commission allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 3 months to complete the application or forfeit the application fee. The zoning administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.

- (4) **Special notice to Department of Natural Resources.** If the application relates to the floodplain regulations in this chapter, the zoning administrator shall send a copy of the application and public hearing notice to the regional office of the Wisconsin Department of Natural Resources at least 10 calendar days before the date of the public hearing.
- (5) **General notice.** Consistent with Division 2 of Article 6, the zoning administrator shall provide for a class 2 public notice, property owner notice, and meeting agenda notice.
- (6) **Staff report preparation and distribution.** The zoning administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the Plan Commission, the applicant, and any other interested person upon request.
- (7) **Public hearing.** Allowing for proper notice, the Plan Commission shall conduct a public hearing to review the application consistent with Division 3 of Article 6. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Division 3 of Article 6. If a continuance is granted, the Plan Commission may direct the zoning administrator to conduct additional research.
- (8) **Staff follow-up.** If the Plan Commission does not render a decision immediately following the public hearing, the Plan Commission may direct the zoning administrator to prepare a preliminary decision document.
- (9) **Recommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, and the staff report, the Plan Commission, no more than 40 calendar days after the public hearing, shall make a recommendation to the Common Council based on the decision criteria contained in this division to (i) approve the conditional use, (ii) approve the conditional use with conditions, or (iii) deny the conditional use.
- (10) **Transmittal of recommendation.** If the Plan Commission action is favorable, the zoning administrator shall prepare a draft decision document effectuating its determination. If the Plan Commission action is not favorable, the Plan Commission shall report its determination to the Common Council including its reasons for denial.
- (11) **General notice.** Consistent with Division 2 of Article 6, the zoning administrator shall place the matter on the meeting agenda of the Common Council.
- (12) **Common Council meeting.** Allowing for proper notice, the Common Council shall consider the application at a regular or special meeting.
- (13) **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the staff report, and the Plan Commission's recommendation, the Common Council shall make a decision based on the decision criteria contained in this division to (i) approve the conditional use, (ii) approve the conditional use with conditions, or (iii) deny the conditional use. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in this chapter or imposed by the city, the city shall grant the conditional use permit. The applicant must demonstrate by substantial evidence that the application and all requirements and conditions established by the city are or shall be satisfied. The decision to approve or deny the permit must be based on substantial evidence.
- (14) **Preparation of final decision document.** Based on the action of the Common Council, the zoning administrator shall prepare a final decision document consistent with this division.
- (15) **Applicant notification.** Within a reasonable time following the Common Council's decision, the zoning administrator shall mail the decision document to the applicant by regular mail.
- (16) **Notification to Department of Natural Resources.** If the application relates to the floodplain regulations in this chapter, the zoning administrator shall mail a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources within 10 calendar days of the date of decision.
- (17) **Acceptance by property owner.** If the application is approved, the property owner shall sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the City Clerk requesting an extension and the Common Council may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall become null and void without any further action by the City. The decision document

shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.

- (18) **Public record copy.** A duplicate copy of the decision document shall be retained as a public record.
- (19) **Recording of decision document.** If the property owner returns the decision document within the required time period with the required signatures, the zoning administrator shall record the decision document against the subject property in the office of the Bayfield County register of deeds.
- (20) **Administrative steps.** If the conditional use is approved and the zoning administrator has created a map showing conditional uses, the zoning administrator shall add the conditional use to that map.

Amendment(s):

- 1. Ordinance 18-001, adopted April 9, 2018

7-55 Basis of decision

(a) **Generally.** When reviewing conditional uses other than nonconforming conditional uses, the Plan Commission in making its recommendation and the Common Council in making its decision shall consider the following factors:

- (1) the size of the parcel on which the proposed use will occur;
- (2) the presence of and compatibility with other uses on the subject property, if any;
- (3) the location of the proposed use on the subject property (e.g., proximity of the proposed use to other existing or potential land uses);
- (4) effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
- (5) the suitability of the subject property for the proposed use;
- (6) effects of the proposed use on the natural environment;
- (7) effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
- (8) effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts; and
- (9) any other factor that relates to the purposes of this chapter set forth in s. 1-5 or as allowed by state law.

(b) **Nonconforming conditional uses.** When reviewing nonconforming conditional uses, the Plan Commission in making its recommendation and the Common Council in making its decision shall make the following determinations:

- (1) The nonconforming use will not be adverse to the public health, safety, or welfare.
- (2) The nonconforming use is in keeping with the spirit and intent of this chapter.
- (3) The nonconforming use would not be otherwise detrimental to the area and in particular the surrounding properties.

The Common Council shall grant approval for a nonconforming conditional use only if the council can make an affirmative finding for all of the criteria listed in this subsection.

(c) "Substantial evidence" as used in this Article means facts and information, other than mere personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

Amendment(s):

- 1. Ordinance 18-001, adopted April 9, 2018

7-56 Imposition of conditions

(a) **Generally.** The Plan Commission may recommend and the Common Council may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, or general welfare. Conditions as to the permit's duration, transfer, or renewal may also be included. All conditions must be reasonable and, to the extent practicable, measurable. Any condition imposed must be related to the purpose of the evidence and be based on substantial evidence.

(b) **Condition may not lessen any requirement.** A condition of approval shall not lessen a development standard or other requirement contained in this chapter.

(c) **Special consideration for solar panels.** In those instances where a solar panel is classified as a conditional use, the reviewing authority may impose one or more conditions of approval, provided the condition satisfies one of the following:

- (1) The condition serves to preserve or protect the public health or safety.
- (2) The condition does not significantly increase the cost of the system or significantly decrease its efficiency.
- (3) The condition allows for an alternative system of comparable cost and efficiency.⁶

(d) **Effect on contracts with another party.** The Common Council shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.⁷

(e) **Special condition for business as property owner.** As a condition of approval of a conditional use, the property owner if it is a business entity, such as a limited liability company or a corporation, shall for the life of the conditional use continuously maintain a registered office and registered agent in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.

Amendment(s):

1. Ordinance 18-001, adopted April 9, 2018

7-57 Application form and content

The application submittal shall include an application form as may be used by the City and a project map prepared at an appropriate scale depicting the information listed in Appendix A.

7-58 Staff report content

The staff report shall contain preliminary findings for the decision criteria listed in this division and other information deemed appropriate.

7-59 Content of decision document

(a) **Approval.** If the application for a conditional use is approved, the decision document shall include the following:

- (1) a statement that the application is approved,
- (2) a description of the conditional use,
- (3) a description of where the conditional use will occur on the property,
- (4) reasons for the decision based on the criteria listed in this division,
- (5) a list of conditions of approval that must be satisfied prior to the establishment of the conditional use or complied with during the life of the conditional use, or both,

⁶ Commentary: See s. 66.0401(1m), Wis. Stats.

⁷ Commentary: See s. 62.23(7)(gm), Wis. Stats. The City, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

- (6) a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same,
- (7) a statement that the applicant may appeal the decision to the Zoning Board of Appeals,
- (8) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk,
- (9) a statement indicating the nature of the approval (i.e., personal to the property owner or runs with the land),
- (10) other information the Common Council or zoning administrator deems appropriate,
- (11) the signature of the zoning administrator on behalf of the Common Council, and
- (12) the date of the decision.

(b) **Denial.** If the application for a conditional use is denied, the decision document shall include the following:

- (1) a statement that the application is denied,
- (2) a description of the project, including acreage and proposed use characteristics,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the Common Council or zoning administrator deems appropriate,
- (7) the signature of the zoning administrator on behalf of the Common Council, and
- (8) the date of the decision.

7-60 Effect of approval

Unless otherwise specified in the conditional use order, approvals are personal to the property owner meaning the approval automatically lapses when the property owner ceases to own the property.

7-61 Expiration of an approval

(a) **Non-establishment of use.** If the zoning administrator determines that substantial work as authorized by a conditional use approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 18 of this article. Upon written petition and with cause, the zoning administrator may grant a one-time extension not to exceed 6 months provided (i) the permit holder requests the extension prior to the expiration of the approval, (ii) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (iii) the project complies with this chapter in effect at the time the extension is granted.

(b) **Cessation of use.** If the zoning administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 18 of this article.

7-62 Amendment of an approved conditional use

Following approval of a conditional use, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

7-63 to 7-70 Reserved

**TITLE 13
CHAPTER 1 – ZONING CODE**

**ARTICLE 21
NONCONFORMITIES**

Sections

21-1	Legislative findings	21-7	Special provisions for nonconforming signs
21-2	Official registry of nonconforming lots, structures, signs, and land uses	21-8	Special provisions for nonconforming bathhouses Special provisions related to the shoreland-wetland overlay district
21-3	Nonconforming lots	21-9	Special provisions related to the floodplain overlay district
21-4	Nonconforming structures		
21-5	Nonconforming uses		
21-6	Nonconforming conditional uses		

21-1 Legislative findings

The Common Council makes the following legislative findings relating to nonconformities:

- (1) There may exist lots, structures, uses, and signs in the City of Washburn that were lawfully established but that do not now comply with one or more provisions of the zoning district in which they are located.
- (2) It is not the intent of this chapter to perpetuate and/or encourage the long-term continuance of nonconformities because they are inconsistent with the requirements and character of the zoning districts involved, or to permit nonconformities to be generally enlarged upon, expanded, or extended except as provided for herein.
- (3) State law permits the reconstruction of nonconforming structures under certain circumstances.

21-2 Official registry of nonconforming lots, structures, signs, and land uses

(a) **Content of registry.** The zoning administrator is authorized to develop and maintain a registry of (1) lots known by him or her to be considered nonconforming, (2) structures known by him or her to be considered nonconforming, (3) signs known by him or her to be considered nonconforming, and (4) land uses known by him or her to be considered nonconforming and those which have registered as a nonconforming use consistent with the requirements in Article 7 of this chapter.

(b) **Form of registry.** At the discretion of the zoning administrator, the registry may consist of either a written list or digital records.

(c) **Disclaimer.** Given the nature of the registry, the city does not warrant that such information is complete and/or accurate in all respects.

21-3 Nonconforming lots

(a) **Generally.** A valid, prior nonconforming lot (herein after nonconforming lot) may be used for an allowable use, provided such use complies with all other development standards of the zoning district in which the lot is located.

(b) **Common ownership of abutting lots.** If a nonconforming lot of record abuts another lot of record, both of which are owned by the same individual or other legal entity, such lots shall be combined prior to the issuance of a zoning permit or a building permit for new construction, if one or both of the lots are vacant.

(c) **Alteration of property boundary lines.** The location of a property boundary line of a nonconforming lot shall not be modified by any means, except when the new property boundary line location will make the nonconforming lot to be conforming or lessen the nonconformity. Any such change in a property boundary location shall be reviewed and approved by the Common Council upon recommendation of the Plan Commission.

21-4 Nonconforming structures

(a) **Generally.** A valid, prior nonconforming structure (herein after nonconforming structure) may be used for any conforming use.

(b) **Enlargement.** A nonconforming structure that is used for a conforming use may be enlarged provided the Plan Commission authorizes such enlargement pursuant to the requirements in Article 7.

(c) **New foundation/basement.** The placement of a new foundation or basement under an existing nonconforming structure that is not located in the 100-year floodplain is permitted provided the foundation or basement does not extend beyond the vertical extent of the existing exterior wall.

(d) **Unsafe conditions.** Nothing in this article shall preclude the building inspector or any other city official from initiating remedial or enforcement actions when a nonconforming structure is declared unsafe or presents a danger to the public health, safety, or welfare; constitutes a public nuisance; or is in violation of any licensing regulation.

(e) **Ordinary repair and maintenance, and remodeling.** Nothing in this article shall be deemed to prohibit or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

(f) **Reconstruction following damage.** A nonconforming structure that is damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation on or after March 2, 2006, may be restored to its condition (e.g., size, location, and use) prior to the damage, except the structure may be larger when necessary to comply with state or federal requirements.¹

(g) **Relocation.** A nonconforming structure shall not be moved or relocated to any other location on the lot unless such structure is made to conform to all regulations of the zoning district in which it is located.

21-5 Nonconforming uses

(a) **Generally.** A valid, prior nonconforming use (herein after nonconforming use) may continue to exist so long as it remains otherwise lawful, subject to the provisions in this section.

(b) **Cessation of use.** If a nonconforming use ceases for any reason, whether intentional or otherwise, for more than 12 continuous months, such use shall not thereafter be reestablished.² A business of a seasonal nature shall not be deemed to be discontinued during periods in which it is normally inactive (e.g., marinas, summer camps). If the zoning administrator determines that a nonconforming use has ceased to operate for more than the aforementioned time period, he or she shall initiate the process established under Article 7 to terminate the nonconforming use. However, if a temporary structure houses a nonconforming use, such use shall terminate when the temporary structure is removed.

(c) **Change in extent.** Except as may be provided in this article or in state law, a nonconforming use shall not be enlarged, increased, or expanded and shall not occupy a greater area than what existed on the effective date of this chapter or any amendment thereto that created the nonconforming use.

(d) **Limitation on structural alterations to structure housing nonconforming use.** Structural alterations to a structure housing a nonconforming use shall not exceed, on an accumulative percentage basis, 50 percent of the equalized assessed value of such structure.³ For example, if a property owner makes structural alterations, the cost of which equals 40 percent of the current equalized assessed value of the structure, any additional structural alterations are limited to 10 percent of the equalized assessed value at the time of the work.

(e) **Damage to structure housing nonconforming use.** If a structure housing a nonconforming use is damaged beyond 50 percent of its present equalized assessed value, such nonconforming use shall not be reestablished.

(f) **Change of location.** A nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied on the effective date of this chapter or any amendment thereto that created the nonconforming use.

(g) **Casual, occasional, accessory, or incidental use.** Casual, occasional, accessory, or incidental use after the primary nonconforming use has terminated, shall not be deemed to perpetuate a nonconforming use.⁴

¹ Commentary: See s. 62.23(7)(h), Wis. Stats.

² Commentary: See s. 62.23(7)(h), Wis. Stats.

³ Commentary: See s. 62.23(7)(h), Wis. Stats.

⁴ Commentary: See *Village of Menominee Falls v. Veirstahler*, 183 Wis. 2d 96, 515 N.W.2d 290 (Ct. App. 1994)

(h) **Change of production.** A change in the method or quantity of production and the incorporation of new technology into a nonconforming use is permitted provided the original character of the use remains the same.⁵

(i) **Termination due to effects on public health, safety, and welfare.** In the event the zoning administrator determines that a nonconforming use, regardless of its duration, is harmful to the public health, safety, or welfare, he or she shall follow the procedure outlined in Article 7 of this chapter relating to termination of a use.⁶

(j) **Unsafe conditions.** Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, provided that such work conforms to the provisions in this chapter.

(k) **Licensing.** The operator of a nonconforming use shall obtain such licenses as may be required by the state of Wisconsin, or its designated agent; Bayfield County; or the City of Washburn, and maintain such licenses for the life of the use or until the entity no longer requires such license.

(l) **Conversion to another nonconforming use.** Subject to the requirements in Article 7, a nonconforming use may be converted to a different nonconforming use. Any nonconforming use that has been converted shall continue to be subject to all applicable provisions related to nonconforming uses and to the conversion order as approved by the Common Council.

(m) **Permissible accessory residential uses.** If an existing single-family dwelling unit is classified as a nonconforming use, the establishment of accessory residential uses normally incidental to a single-family dwelling is not considered to be an expansion of a nonconforming use and is permitted provided the accessory use is otherwise allowed by the zoning code and all accessory buildings exceeding 600 square feet must be approved by the Plan Commission upon a determination that the accessory building is otherwise allowed in the zoning district in which it is located.

(n) **Special provisions for manufactured home communities.** Notwithstanding subsection (d) above, a manufactured home community licensed under s. 101.935, Wis. Stats., that is a legal nonconforming use continues to be a legal nonconforming use notwithstanding the occurrence of any of the following activities within the community:

- (1) Repair or replacement of any manufactured homes
- (2) Repair or replacement of infrastructure.⁷

21-6 Nonconforming conditional uses

(a) **Generally.** Subject to the requirements in Division 3 of Article 7, a nonconforming use may be allowed as a conditional use.

(b) **Expansion and change in a nonconforming conditional use.** If a nonconforming use is approved as a conditional use, it is not subject to the restrictions contained in this article. Any proposed expansion or change in a nonconforming conditional use shall be reviewed as an amendment to the initial approval.

21-7 Special provisions for nonconforming signs

- (a) **Change of copy.** The copy of a nonconforming sign may be changed.
- (b) **Change of sign face.** The face of a nonconforming sign may be changed provided the building inspector determines that the other features of the sign are structurally sound and properly maintained.
- (c) **Change in location.** A nonconforming sign shall not be relocated.
- (d) **Change in area.** The area of a nonconforming sign shall not be enlarged or reconfigured in any manner.
- (e) **Change in height.** A nonconforming sign shall not hereafter be placed higher even if the height may be permitted in the zoning district in which the sign is located.
- (f) **Change in lighting.** A nonconforming sign that is not illuminated may not hereafter be illuminated even though such lighting may be permitted in the zoning district in which the sign is located. A nonconforming sign that is illuminated may not hereafter be illuminated in any other manner even

⁵ Commentary: See *Racine County v. Cape*, 2002 WI App 19, 250 Wis. 2d 44, 639 N.W.2d 782, 01-0740

⁶ Commentary: See *Town of Delafield v. Sharpley*, 212 Wis. 2d 332, 568 N.W.2d 779 (Ct. App. 1997, 96-2458)

⁷ Commentary: See s. 62.23(7)(h), Wis. Stats.

though such lighting may be permitted in the zoning district in which the sign is located, except to bring the existing lighting into compliance (e.g., removal of exposed lights bulbs).

- (g) **Addition of an electronic message display.** A nonconforming sign shall not hereafter incorporate an electronic message display even though it may be permitted in the zoning district in which the sign is located.
- (h) **Temporary signs.** A nonconforming sign that is described in this chapter as being temporary shall be made to conform with all applicable standards or be removed within 90 calendar days of the date the sign became nonconforming or within a lesser time period specified by the building inspector if he or she determines that the sign poses an unacceptable risk to public health or safety.
- (i) **Ongoing maintenance and safety.** A nonconforming sign shall comply with all applicable standards in Article 18, including any requirements related to maintenance and safety.
- (j) **Abandonment.** A nonconforming sign that is abandoned as set forth in s. 18-21 shall thereafter be made to conform with all applicable standards or be removed as set forth in that section.
- (k) **Reconstruction following damage.** A nonconforming sign that is damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation on or after March 2, 2006, may be restored to its condition (e.g., size, location, and use) prior to the damage, except the sign may be larger when necessary to comply with state or federal requirements.⁸
- (l) **Loss of nonconforming status.** If a property owner or the owner of the sign modifies a nonconforming sign in any manner that violates one or more limitations imposed in this chapter, such sign shall thereafter be made to conform with all applicable standards or be removed within 60 calendar days of the date the building inspector makes such determination in writing, or within a lesser time period specified by the building inspector if he or she determines the sign poses an unacceptable risk to public health or safety.

21-8 Special provisions for nonconforming boathouses

The ordinary maintenance and repair of a nonconforming boathouse that extends beyond the ordinary high-water mark shall comply with s. 30.121, Wis. Stats.

21-9 Special provisions related to the shoreland-wetland overlay district

The shoreland-wetland provisions of this code authorized by s. 62.231, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling, or expansion of a nonconforming structure in existence on the effective date of the shoreland wetland provisions, or of any environmental control facility in existence on May 7, 1982 related to such a structure. All other modifications to nonconforming structures are subject to s. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50 percent of current fair market value.

21-10 Special provisions related to the floodplain overlay district

Special provisions relating to nonconformities in the floodplain overlay district are included in Division 9 of Article 9.

⁸ Commentary: See s. 62.23(7)(h), Wis. Stats.

CITY OF WASHBURN

PO BOX 638

WASHBURN, WI 54891

Receipt Nbr: 33121

Date: 7/21/2022

Check

RECEIVED
FROM

Jody and Tim Compton

\$150.00

Type of Payment

Accounting

Description

ZONING PERMITS

Conditional Use Permit - Compton

Amount

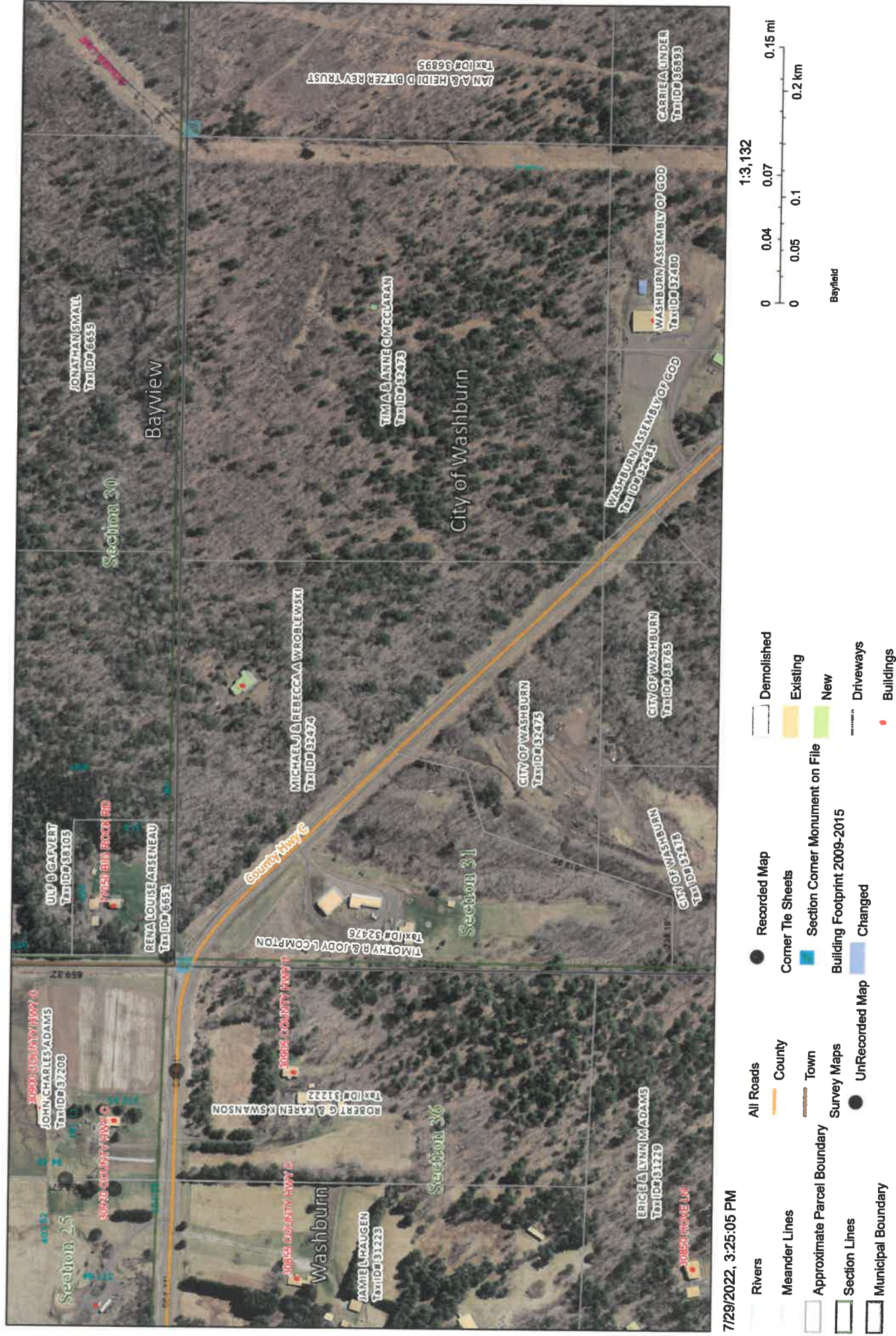
150.00

TOTAL RECEIVED150.00

Receipt Memo:

Conditional Use Permit Application

Bayfield County, WI



Bayfield County Land Records Department
<https://maps.bayfieldcounty.wi.gov/BayfieldWAB/>

CITY OF WASHBURN
119 Washington Avenue
P.O. Box 638
Washburn, WI 54891



715-373-6160
715-373-6161
FAX 715-373-6148

To: Honorable Mayor and City Council Members and Plan Commission Members
From: Scott J. Kluver, Administrator
Re: Outdoor Alcohol Consumption at Licensed Premises Ordinance Revisions
Date: August 10, 2022

Enclosed you will find a proposed ordinance that reorganizes and makes changes to what is known as our "beer garden" ordinances. A copy of the proposed changes have been provided to all "Class B" and Class "B" (on-site consumption for liquor and beer) license holders and known prospective holders.

This draft ordinance is the culmination of several months of review to seek consistency and request to expand the outdoor alcohol consumption area.

Changes occur in both the alcohol regulation ordinances as well as the zoning ordinances. License holders will need to follow the procedures for having an outdoor food and beverage service area in the zoning code, then they will need to indicate any approved outdoor serving areas on their annual license. The old "beer garden" provisions will be deleted. Outdoor food and beverage service accessory uses will be changed from conditional to permitted in all Commercial zoned areas as well as the Mixed-Use Waterfront district; however, applicants will still need to submit and have a site plan and plan of operation review by the Plan Commission. Please note all of the special conditions that would also need to be complied with in the zoning code (Section 8-541).

Special event requests would still be treated separately as they have been under the alcohol code. These provisions would not impact that process.

If you have any questions regarding the procedures or requirements that would need to be followed, please let me know.

**CITY OF WASHBURN
NOTICE OF PUBLIC HEARING
ZONING ORDINANCE AMENDMENT**

Public Hearing will be held at the Plan Commission Meeting, Thursday, August 18, 2022, at 5:30 P.M., at City Hall, 119 Washington Avenue, for public comment on the following issue:

Zoning Code Amendment:

For the purpose of amending the City's Zoning Code (Title 13) Chapter 1, Article 8 to update the regulation of licenses for outdoor consumption of alcoholic beverages.

Further details on the proposed amendment may be obtained by visiting City Hall during open office hours, by calling 715-373-6160 ext. 4, or e-mailing washburnadmin@cityofwashburn.org.

Scott J. Kluver
Zoning Administrator

Block Ad July 29 and August 5, 2022 – Daily Press

CITY OF WASHBURN
119 Washington Avenue
P.O. Box 638
Washburn, WI 54891



715-373-6160
715-373-6161
FAX 715-373-6148

July 28, 2022

Dear License Holder:

Please find the enclosed Public Hearing Notice being held by the Plan Commission on Thursday, August 18, 2022, 5:30pm, at Washburn City Hall, 119 Washington Avenue.

The purpose of this public hearing is for amending the Zoning Code to update the regulation of licenses for outdoor consumption of alcoholic beverages (Beer Garden).

You will find the included Ordinance #22-006 identifying these changes.

Also note that City Council may take action on this ordinance that evening.

Sincerely,

A handwritten signature in blue ink that reads 'Tony Janisch'. The signature is written in a cursive style with a horizontal line above the first part of the name.

Tony Janisch
Assistant City Administrator

CITY OF WASHBURN

Ordinance No. 22-006

An ordinance adopted by the Common Council for the City of Washburn at its regular meeting of _____, 2022, for the purpose of amending Title 7, Chapter 2 and Title 13, Chapter 1, Article 8 of the City's Ordinances to update the regulation of licenses for outdoor consumption of alcoholic beverages. Additions are in *red italics*, deletions are in ~~strikeout~~.

1. *Amend Title 7, Chapter 2, Section 6 as follows:*

Sec. 7-2-6 Applications 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 Secs. 887.01 to 887.04, Wis. Stats., and shall be filed with the City Clerk 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, *any permitted outdoor food and beverage service area, and any permitted place of outdoor recreation and entertainment* to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.

2. *Replace Title 7, Chapter 2, Section 7(h) to read as follows:*

Sec. 7-2-7 Qualifications of Applicants and Premises

* * *

(h) **Licensed Premises.** All sales of intoxicating liquors and fermented malt beverages within the City of Washburn, and any on-premises consumption allowed certain classes of licenses, shall be limited to and shall be made upon the premises described within the license granted by the Common Council. Specifically restricted by this section is the sale and delivery of alcoholic beverages by food delivery services. A licensed premises shall be particularly described on the license subject to the following restrictions:

(1) Except as specifically allowed herein, licenses issued by the City shall be for the enclosed structure itself and shall not confer any license or right to property outside of the licensed structure.

(2) A licensed premises may include any area for which the applicant has obtained a zoning permit for an outdoor food and beverage service area as defined in Article 3, Section 17.21 of the City's zoning code.

(3) For any licensee whose principal land use for the licensed premises is classified as Recreation and Entertainment, as defined in the City of Washburn Zoning Code, Article 3, Section 10, and where the primary activities of such Recreation and Entertainment occur outdoors, the licensed Premises may include any part of the property associated

with such outdoor use. Any licensed Premises under this subsection shall clearly identify the area approved for outdoor consumption.

(4) A temporary extension of premises approved under Ordinance Sec.7-2-20 may define a separate licensed premises for such temporary extension, including areas of outdoor sales and/or consumption.

3. Delete Title 7, Chapter 2, Section 19 in its entirety:

~~Sec. 7-2-19 — Beer Garden Licenses Required for Outdoor Consumption at Class “B” Premises.~~

4. Amend Title 7, Chapter 2, Section 20(a) to remove reference to the deleted Sec. 7-2-19

Sec. 7-2-20 Temporary Extension of Licensed Premises for Special Events

(a) **Authority.** The granting of a temporary extension of a licensed premises for special events shall authorize the licensee to sell or serve intoxicating liquors or fermented malt beverages, as permitted by the specific license held, during the period of time and in the area described in the application for such temporary extension, as expressly approved by the City Clerk. Such authority, however, shall be contingent upon the licensee also obtaining any and all other special privileges or permits required for the conduct of the special event for which the temporary extension of the licensed premises is sought. ~~Any licenses granted a temporary extension of licensed premises for a special event need not also obtain a license pursuant to Section 7-2-19 for said event.~~

* * *

5. Amend Title 13, Chapter 1 as follows:

Article 8, Section 8-541 Outdoor food and beverage service

- (a) **Maximum size of service area.** The size of the outdoor service area shall not be more than 50 75 percent of the interior floor area of the brewpub, restaurant, or tavern.
- (b) **Location of service area.** The outdoor service area shall be located on the same parcel of land as the brewpub, restaurant, or tavern or on an adjoining parcel. The outdoor service area shall not be located in a public right-of-way, a required landscape area, any required off-street parking space, or the required setback of a front yard, side yard, shore yard, or rear yard.
- (c) **Consistency with state liquor license.** No alcohol beverages shall be served or consumed within the outdoor service area unless the liquor, beer, or wine license, whichever is applicable, as issued by the City, explicitly includes states that consumption is permitted within the outdoor service area as a part of the licensed premises.

- (d) ~~Entrance to service area if alcohol beverages are served.~~ If alcohol beverages are served, the entrance or entrances to the outdoor service area shall be exclusively through the brewpub, restaurant, or tavern, and a barrier such as a rope or fence shall be erected to prevent entry to the outdoor service area by any other means.

Conditions to include outdoor area in Licensed Premises for alcohol service and/or consumption. The following conditions are required for any outdoor service area to be included in the licensed premises for service and/or consumption of alcoholic beverages:

- a. The outdoor service area shall be surrounded by a permanent barrier or fence to prevent entry into the outdoor service area except through designated entrances. The conditions sections 8-530(a) through (c) for the construction of Fences shall apply, however, no separate fence application or zoning permit shall be required. A rope shall not be deemed a sufficient barrier for purposes of this subsection.
 - b. The primary entrance to the outdoor service area shall be through the brewpub, restaurant or tavern. Any exterior entrance and/or exit to the outdoor service area shall be by a gate or door capable of being latched from the inside of such outdoor service area, and such exterior entrance shall be visible from the interior bar and/or service area.
- (e) **Restroom requirements.** The restroom facilities in the brewpub, restaurant, or tavern shall be of sufficient capacity to serve both the indoor and outdoor patrons. Temporary toilet facilities are not permitted.

Article 8, Exhibit 8-1 Land Use Matrix

		Special Standards	Secondary Review	R-1	R-2	R-6	R-7	C-1	C-2	C-3	I-1	L-1	M	MUW
17.21	Outdoor food and beverage service	8-541	SP, PO, ZP	-	-	-	-	€ P	€ P	€ P	-	-	-	€ P

6. Effective Date of Ordinance. This ordinance shall take effect upon passage and publication.

Attest:

Mary D. Motiff
Mayor

Scott J. Kluver
City Clerk

Adopted: _____

Published: _____