

RULES AND REGULATIONS FOR MUSKEGO
BUSINESS/INDUSTRIAL PARK
(AS AMENDED)

WHEREAS, the undersigned is undertaking and intends to subdivide certain lands for use as an industrial subdivision to be known as Muskego Business/Industrial Park.

NOW THEREFORE, in consideration of the aforesaid and for the purpose of preserving the value of the lots contained within the subdivision as well as all lands located in the general vicinity of the subdivision, the undersigned hereby declares and provides that all subdivision of the lands above described shall be subject to the following restrictions, covenants and conditions, to-wit:

1. No building, or any improvement, shall be erected, placed or altered on any building site in the subdivisions until the plans for such building or improvement, including site plan, landscape plan, building plan, and specifications have been approved by the planning commission of the City of Muskego. Said commission shall approve or disapprove such plans with respect to conformity with -- these restrictions and other applicable enactments of the city, and with respect to harmony of external design and land use as it affects property within and adjacent to the subdivision.

Failure of the aforesaid commission or committee to act upon such building or improvement plans within sixty (60) days after submission to the Muskego City Clerk shall constitute an approval of such plans.

2. No part or portion of any building shall be erected, constructed, or extended nearer than fifty (50) feet from the front line of any parcel in said subdivision. Employee parking of automobiles shall be prohibited at all times within fifty (50) feet of the front street line of any parcel in said subdivision. Visitor or customer parking may be allowed within the fifty (50) foot setback when approved by the Planning Commission but not closer than ten feet from the front street line. The fifty (50) foot setback shall be entirely graded and sodded or seeded between side lot lines and from the road shoulder to the building face in a manner that will produce an acceptable lawn, excepting only such areas as may be required for driveways, visitor parking, or walks.

All driveways shall be surfaced with hot-mixed asphalt concrete or Portland cement concrete from the city street surface to the front building face. All walks shall be of Portland cement concrete.

All such landscaping, drive, and walks shall be completed at the time of construction of the building, if weather conditions permit.

3. No part or portion of any building shall be erected, constructed, or extended nearer than ten (10) feet to any interior side lot line, the combined total of sideyards for any interior parcel shall not be less than thirty (30) feet. Sideyards on the street side of corner lots shall be thirty-seven and one-half (37-1/2) feet, and the use of such area shall be in accordance with the provisions of Paragraph 2 of these restrictions except that employee parking shall be permitted in this area. The parking or storage of company owned trucks, products or equipment shall be prohibited in this area.

No part or portion of any building shall be erected, constructed, or extended nearer than twenty-five (25) feet to any rear lot line.

4. No building or structure of any type shall be erected, placed, or altered on any lot which will occupy more than forty-five percent (45%) of the total area of said lot.

5. All grass, trees, and shrubbery must be kept watered in dry weather and in good appearance at all times. All grass must be cut whenever necessary. If grass is not cut, the City of Muskego may serve notice and if not complied with in two (2) days, the City may cut same and add this cost to the lot owner's real estate tax bill.

6. The front of all buildings, and the side or rear of all buildings when facing a street (including side streets on corner lots) shall be faced with decorative masonry or other material approved by the Planning Commission or Architectural Control Committee and said facing shall extend a minimum of twenty (20) feet on each side of all buildings or to a natural dividing point approved by said Commission or Committee. The front of a building that is set back two hundred (200) feet or more may be partially faced with concrete block, subject to approval of said Commission or Committee. On corner lots, if the side of the building, other than the front, is set back two hundred (200) feet or more from the side lot line, then the facing may be of any material as approved by the Commission and is consistent with other provisions herein. For the purpose of this restriction, standard, lightweight or cinder concrete block are not considered decorative masonry.

Except as otherwise provided herein, the sides and rear of all buildings shall be of any material approved by the Commission or Committee.

Where concrete block masonry is used it shall be painted two (2) coats of paint and shall be of decorative pattern block or other decorative treatment of plain block approved by the Commission or Committee.

All faces of all buildings must be kept in good repair and appearance at all times.

7. No building shall be so similar to or so at variance with its neighboring buildings as to constitute a depreciation to the immediate neighborhood.

8. One (1) parking stall of not less than one hundred eighty (180) square feet, excluding drives and approaches, shall be provided on each property for every thousand square feet of building area or for every two (2) employees, whichever amount constitutes the greater number of stalls. Parking stalls shall be added on each property as required to accommodate all employees. Variances may be granted by the Planning Commission for warehouse or similar uses upon proof that such parking restrictions are not realistic. City streets will not be designed by the City to provide parking.

9. All material or products stored outside buildings must be behind the building setback line from the street and must be screened from view from the street with solid fencing or screening approved by the Planning Commission. All trash must be enclosed by a fence of solid material such as will provide a suitable visual screen. Minimum height

of such fence shall be six feet. Fence must be kept painted or have such other finish as is generally accepted for good appearance. Wire fence is not acceptable for this purpose.

10. No operation, manufacture, or building use in said subdivision shall produce or effect noise, vibration, dust gas, smoke, toxic matter, or odors to an extent greater than the following maximum allowable levels:

A. Noise - Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards hereinafter prescribed providing that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so measured for the purpose of these restrictions shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two decibels. Noises incapable of being so measured, such as those of an irregular and intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.

At no point on the boundary of any individual parcel or the boundary of the subdivision shall the sound intensity level of any individual operation or plant (other than the operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands shown in the following table:

MAXIMUM PERMITTED SOUNDED LEVEL
(Decibels)

Octave Band (Frequency, cycles per Second)	Along Parcel Boundaries	Along Subdivision Boundaries
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1200	46	53
1200 to 2400	40	47
2400 to 4800	34	41
above 4800	32	39

B. Vibration - No industrial operation or activity (except those not under the direct control of the manufacturer), shall cause at any time ground transmitted vibrations in excess of the limits set forth below. Vibration (the periodic displacement, measured in inches, of earth) shall be measured at any point along the exterior boundary of the subdivision with a three component measuring instrument approved by the Common Council, and shall be expressed as displacement in inches.

Frequency (Cycles per second)	Maximum Permitted Displacement along Subdivision Boundaries (in inches)
0 to 10	.0008
10 to 20	.0005
20 to 30	.0002
30 to 40	.0002
40 and over	.0001

C. Smoke and Particulate Matter - the emission of smoke or particulate matter in such manner or quantity as to endanger or to be detrimental to the public health, safety, comfort, or welfare is hereby declared to be a public nuisance, and shall henceforth be unlawful.

For the purpose of grading the density of smoke, the Ringelmann Chart, published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particulate matter of a density greater than No. 2 on the Ringelmann Chart is prohibited at all times except as otherwise provided hereinafter.

The emission from all sources, within any lot area, of particulate matter containing more than ten percent by weight or particles having a particle diameter larger than 44 microns is prohibited.

Dust and other types of air pollution, borne by the wind from such sources as storage areas, yards, roads, and the like within lot boundaries shall be kept to a minimum by appropriate landscaping, paving, oiling, fencing, or acceptable means. Emission of particulate matter from such sources, in excess of the weight limitation hereinafter specified, is prohibited.

a. Smoke-Light Manufacturing District - The emission of more than a ten smoke units per hour per stack is prohibited, including smoke of a density in excess of Ringelmann No. 2. However, once during any six-hour period, each stack may emit up to 20 smoke units when blowing soot or cleaning fires. Only during firecleaning period however, shall smoke of Ringelmann No. 3 be permitted, and then for not more than four minutes.

The rate of emission of particulate matter from all sources within the boundaries of any lot shall not exceed a net figure of one pound per acre of lot area during any one hour, after deducting from the gross hourly emission per acre the correction factor set forth in the following table:

Allowance for Height of Emission*

Height of Emission Above Grade (Feet)	Correction (Pounds Per Hour Per Acre)
50	0.01
100	0.06
150	0.10
200	0.16
300	0.30
400	0.50

*Interpolate for intermediate values not shown in table. Determination of the total net rate of emission of particulate matter within the boundaries of any lot shall be made as follows:

1. Determine the maximum emission in pounds per hour from each source of emission and divide this figure by the number of acres of lot area - thereby obtaining the gross hourly rate of emission in pounds per acre.
2. From each gross hourly rate of emission derived in (1), above, deduct the correction factor (Interpolating as required) for height of emission set forth in the table, thereby obtaining the net rate of emission in pounds per acre per hour from each source of emission.

3. Add together the individual net rates of emission derived in (2), above, to obtain the total net rate of emission from all sources of emission within the boundaries of the lot. Such total shall not exceed three pounds per acre of lot area during any one hour.

b. Smoke - Heavy Manufacturing District - The emission of more than 15 smoke units per hour per stack is prohibited, including smoke of a density in excess of Ringelmann No. 2. However, once during any three-hour period, each stack may emit up to 30 smoke units, for blowing soot, and for cleaning fires. During fire-cleaning periods only, a smoke of a density of Ringelmann No. 3 shall be permitted, and then for not more than four minutes per period.

The rate of emission of particulate matter from all sources within the boundaries of any lot shall not exceed a net figure of three pounds per acre of lot area during any one hour, after deducting from the gross hourly emission per acre the correction factor set forth in the following table:

Allowance for Height of Emission*

Height of Emission Above Grade (Feet)	Correction (Pounds Per Hour Per Acre)
50	0
100	0.5
150	0.8
200	1.2
300	2.0
400	4.0

*Interpolate for intermediate values not shown in table.

Determination of the total net rate of emission of particulate matter within the boundaries of any lot shall be made as follows:

1. Determine the maximum emission in pounds per hour from each source of emission and divide this figure by the number of acres of lot area - thereby obtaining the gross hourly rate of emission in pounds per acre.

2. From each gross hourly rate of emission derived in (1) 1, above, deduct the correction factor (interpolating as required) for height of emission set forth in the table, thereby obtaining the net rate of emission in pounds per acre per hour from each source of emission.

3. Add together the individual net rates of emission derived in (2) above, to obtain the total net rate of emission from all sources of emission within the boundaries of the lot. Such total shall not exceed three pounds per acre of lot area during any one hour.

D. Toxic Matter - No use shall, for any period of time, discharge across the boundaries of the parcel wherein it is located, toxic matter in such concentrations as to be detrimental to, or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business.

E. Noxious and Odorous Matter - No activity or operation shall cause, at any time, the discharge of matter across the lot lines in such concentrations as to be noxious. The emission of odorous matter in such quantities as to be readily detectable without the use of instruments at any point along lot lines is prohibited.

11. No activities involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted in said subdivision.

12. No rubbish may be burned on the premises except in an incinerator especially constructed and designed for this operation. Applicable restrictions of paragraph 10 of these restrictions apply to rubbish burning.

13. The acceptance of the City of an Offer to Purchase land within the Business/Industrial Park is subject to the understanding that construction of the proposed business will begin within 12 months of the conveyance of property by the City to the purchaser. The initial construction proposed in each purchase shall be a minimum of 2500 square feet of building per acre purchased.

In the event any purchaser of land from the City of Muskego elects to sell any portion thereof which is not being used in connection with the business or industry of purchaser, or which purchaser desires to sell separate and distinct from any sale of the business or industry being conducted by purchaser the same shall first be offered for sale, in writing, to the City of Muskego at the price per acre paid for such land by purchaser, together with cost of any improvements thereon paid for by purchaser and any special assessments paid by purchaser relating to such lands, with interest at the rate of six per cent (6%) per annum from date of payment of the purchase price of said lands by purchaser, from the date of payment of any cost for improvements on said lands by purchaser and from the date of payment of any special assessments by purchaser relating to such lands, to date of repurchase by the City.

The city shall have 90 days from date of receipt of such offer to accept or reject the same, unless an extension of time may be mutually agreed upon and set forth in writing. Acceptance or rejection of such offer shall be indicated by resolution adopted by the Common Council of the City of Muskego.

In the event of acceptance of such offer by the City, conveyance shall be by warranty deed free and clear of all liens or encumbrances created by act or default of purchaser.

If the City of Muskego fails to act on such offer of sale within 90 days from receipt thereof as aforesaid or rejects said offer, purchaser may then sell said lands to any person, firm or corporation and the City shall have no further interest therein, except that any use of said lands by any subsequent purchaser shall be subject to applicable zoning, ordinances, restrictions and regulations of the City relating to the use of said premises at the time of such sale.

Nothing contained in paragraph 13 of these restrictions shall be deemed to give the City of Muskego a right of first refusal in the event that a purchaser of land who has improved the same in accordance with the purpose and the original sale shall propose to sell all of such land as one parcel together with the improvements thereon, it being intended that the provisions of paragraph 13 of these restrictions shall apply only to the resale of vacant land.

Paragraph 13 of these restrictions may be modified by a majority vote of the Common Council of the City of Muskego without requiring the approval or action of property owners within the subdivisions as set forth in paragraphs 14 and 15 of these restrictions.

14. Each lot shall be conveyed subject to the within restrictions and covenants, all of which are to run with the land and shall be binding on all parties and all persons claiming them for a period of ten years from the date this Declaration of Restrictions is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten years each, unless an instrument signed by a majority of the then owners of the lots in said subdivision, together with the approval thereof by the Common Council of the City of Muskego has been recorded, agreeing to change, modify, or amend said covenants in whole or in part.

In determining a majority of property owners one vote shall be counted for each owner owning three acres of land or less, and one additional vote for each full three acres, with a maximum of ten (10) votes for any one property owner. The unsold lands retained by the City shall not be included in such voting.

The terms and provisions of paragraph 14 of these restrictions are subject to the terms and provisions of paragraph 13 of these restrictions.

15. The within covenants and restrictions, except the provisions of paragraph 13 of these restrictions, may be modified and amended only upon the recording of an instrument to said effect duly signed by a majority of the then owners of the lots in said subdivisions with the approval thereof by the Common Council as evidenced by a resolution duly adopted by at least a three-fourth's favorable vote of all members of the Common Council.

The majority of the property owners shall be determined as set forth in paragraph 14 of these restrictions.

16. The enforcement of the restrictions and covenants contained in this Declaration of Restrictions, shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants, either to restrain violations or to recover damages. Such proceedings may be commenced by any owner or owners of lots in said subdivision or the City of Muskego.

17. Invalidation of any one of these covenants or restrictions contained within this Declaration of Restrictions, by judgment or court order, shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the said City of Muskego has caused these presents to be signed by Jerome J. Gottfried, its mayor and Bette J. Bowyer, its clerk, and its corporate seal to be hereunto affixed this 28 day of July, 1970.

CITY OF MUSKEGO

By Jerome J. Gottfried
Jerome J. Gottfried, Mayor

ATTEST:

Bette Bowyer
City Clerk