

AGENDA
CITY OF BERLIN
PLAN COMMISSION MEETING
TUESDAY APRIL 27, 2021 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
MEETING IS OPEN TO THE PUBLIC & CITY HALL IS HANDICAPPED ACCESSIBLE
Zoom Link: <https://us02web.zoom.us/j/6313066796>
Call In: 312 626 6799
Meeting ID: 631 306 6796

- 1) Call meeting to order - Roll Call
- 2) General Public Comments
- 3) Approval of Minutes –Plan Commission Meeting April 6th, 2021
- 4) Public Hearing for Ordinance Creating and Rezoning Property to CWA City Wildlife Area District.
RECOMMENDATION: Recommend to Common Council for Approval for Ordinance Creating and Rezoning Property to City Wildlife Area (CWA) District.
- 5) Public Hearing for Amendments to Accessory Structure Ordinance. RECOMMENDATION: Recommend to Common Council for the Approval of the Amendments to the Accessory Structure Ordinance.
- 6) Review and Discuss City of Berlin Official Street Map and Future Street Map. RECOMMENDATION: Schedule Public Hearing for Official Street Map and Future Street Map.
- 7) Old Business (To be used to request items of old business be put on a future agenda for further discussion or action; or used to make a motion for reconsideration of an item from the current meeting or immediately previous meeting; or to make a motion to take items off the table which were laid on the table only during the current meeting.)
- 8) New Business (To be used to request items of new business be put on a future agenda)
- 9) Public Appearances
- 10) Next meeting date –May 25th, 2021
- 11) Adjourn

CITY OF BERLIN PLAN COMMISSION MINUTES
APRIL 6TH, 2021
CITY OF BERLIN
BERLIN, WISCONSIN

The April 6th, 2021 City Plan Commission meeting was called to order at 6:00 p.m. by chairman Schramer. Roll call present were: Bobbie Erdmann, Ed Marks, Victoria Hill, Dave Secora, and Dick Schramer. Also present was Lindsey Kemnitz and Attorney Chier.

First item was approval of the February 23rd, 2021 Plan Commission minutes. Hill moved to approve the February 23rd, 2021 Plan Commission minutes as corrected. Marks seconded the motion, which was carried by a voice vote.

Schramer opened the public hearing for sign ordinance amendment relating to multi-tenant properties at 6:02pm. Schramer asked three times for anyone to speak in favor of the amendment and three times for anyone to speak against the amendment. No one spoke in favor or against the ordinance. The public hearing was closed at 6:04pm. Marks made a motion to recommend the approval of the ordinance to Common Council. Secora seconded the motion, which was carried by a voice vote.

The next item was to review the ordinance creating and rezoning property to City Wildlife Area (CWA) District. Kemnitz explained that this is the next step in the process, prior to the City accepting the donation of the land on HWY 49 from Ducks Unlimited. Schramer mentioned a couple of the parcel numbers were incorrect as they were changed to City parcel numbers due to the annexation. Erdmann made a motion to schedule public hearing for the April 27th meeting. Secora seconded the motion, which was carried by a voice vote.

The following item was to review the amendments to the accessory structure ordinance. Attorney Chier explained that this draft includes clarification on temporary and permanent structures. He also mentioned section 82-288 construction regulations does not apply to accessory structures as he stated they did before, this section only applies to principal structures. Secora mentioned 82-288 should be reviewed as it does not include newer materials that are being used for residential structures. Erdmann made a motion to schedule the public hearing for the April 27th for the accessory structure ordinance. Marks seconded the motion, which was carried by a voice vote.

No new or old business.

Next meeting date is April 27th, 2021.

Marks moved to adjourn at 6:35p.m. Hill seconded the motion, which carried by voice vote.

Lindsey Kemnitz, Community Development Director

AN ORDINANCE CREATING, AND REZONING PROPERTY TO, CWA CITY WILDLIFE AREA DISTRICT

WHEREAS, the City of Berlin Plan Commission has held a public hearing regarding the ordinance as set forth herein, on April 27, 2021; and

WHEREAS, the Plan Commission has recommended to the Common Council to approve the ordinance as set forth herein.

NOW THEREFORE, the Common Council of the City of Berlin do ordain as follows:

Chapter 82, Article III, Division 14 of the Code of Ordinances of the City of Berlin shall be created as follows:

Division 14. – CWA CITY WILDLIFE AREA DISTRICT

Sec. 82-486. – Use regulations.

City wildlife areas, as defined in section 51-1, and all uses contemplated for city wildlife areas set forth in chapter 51 of this Code, shall be the only permitted uses in the CWA city wildlife area district.

The following parcels of real property shall be rezoned from C-1 conservancy district and A-1 agricultural district to CWA city wildlife area district:

PARCEL 1:

Fractional Government Lot Number 2, Section 9, Township 17 North, Range 13 East, in the City of Berlin, Green Lake County, Wisconsin.

[206-01875-0000]

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PARCEL 2:

Part of the Northwest Quarter of the Southwest Quarter (NW¼ of SW ¼), and the Southwest Quarter of the Southwest Quarter (SW 1/4 of SW ¼) Section 10, Township 17 North, Range 13 East, in the City of Berlin, Green Lake County, lying within and bounded by a line running as follows: Commencing at a point on the Easterly shore of Fox River on the West line of Section 10, T17N, R13E, and running thence South on said Section line a distance of 74 rods, thence East 22 rods, thence North about 37 rods to a bayou, and thence Northwesterly along the Westerly margin of said bayou to Fox River, and thence in a Southwesterly direction along the shore of said Fox River to the place of beginning.

[206-01258-0000]

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PARCEL 3:

Part of the West Half of the Southwest Quarter (W ½ of SW ¼), Section 10, Township 17 North, Range 13 East, City of Berlin, Green Lake County, Wisconsin, described as follows: Commencing at the Southwest corner of said Section 10 and running thence East on the South line of said section to the westerly line of Highway No. 49; thence North 20 degrees and 42 minutes East along the West line of said Highway No. 49, 77 rods and 2+1/2 feet; thence North 80 degrees West 27 rods; thence South to a point 47 rods and 14+1/2 feet North and 22 rods East of the Southwest corner of said Section 10; thence west parallel to the south line of said Section 10 to the west line thereof; and thence south along the west line to said Section

10 to the place of beginning,
[206-01259-0000]

-----&-----

PARCEL 4:

The Northwest Quarter of the Northwest Quarter (NW¼ of NW ¼), Section 15, Township 17 North, Range 13 East, formerly in the Town of Berlin - now in the City of Berlin, Green Lake County, Wisconsin, EXCEPTING THEREFROM that real estate described in Vol. 116 on Page 240 and in Volume 140 on Page 353.

[206-01251-1000]

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PARCEL 5:

The Northeast Quarter of the Northwest Quarter (NE¼ of NW¼), Section 15, Township 17 North, Range 13 East, formerly in the Town of Berlin - now in the City of Berlin, Green Lake County, Wisconsin.

[206-01251-2000]

-----&-----

PARCEL 6:

The North 283 feet of the Southeast Quarter of the Northwest Quarter (SE ¼ of NW ¼), Section 15, Township 17 North, Range 13 East, formerly in the Town of Berlin - now in the City of Berlin, Green Lake County, Wisconsin.

[206-01251-3000]

-----&-----

PARCEL 7:

Part of the Southwest Quarter (SW ¼), Section 10, Township 17 North, Range 13 East, City of Berlin, Green Lake County, Wisconsin, described as follows: Commencing at the Northeast corner of the SW¼ of Section 10, T17N, R13E, thence West 2 rods to a point, thence South 27 rods and 18 links to a creek or drain, thence Northwesterly along the center of said creek to State Highway 49; thence along the East side of said highway to the South boundary line of the Southwest Quarter (SW ¼) of said Section 10, T17N, R13E; thence East on the South line of said SW¼ of Section 10 to the Southeast corner thereof; thence North on the East line of said SW¼ of Section 10 to the place of beginning.

[206-01251-0000]

Such rezoning of the above parcels shall not be codified and does not affect the Code of Ordinances of the City of Berlin.

This ordinance shall take effect the day after publication.

The numeric section numbers and headings of any portions of the Code of Ordinances affected by this Ordinance shall be subject to modification in the discretion of the codifier, and the approval of the City Attorney, during codification into the City's current Code of Ordinances.

Passed, approved and adopted this ____ day of _____, 2021.

ROLL CALL VOTE:

CITY OF BERLIN

____ AYES
____ NAYS
____ ABSENT

BY: _____
Richard D. Schramer, Mayor

APPROVED AS TO FORM:

ATTEST: _____
Jodie Olson, City Clerk

Matthew G. Chier, City Attorney

AN ORDINANCE AMENDING THE ZONING CODE TO REDEFINE PERMANENT AND TEMPORARY STRUCTURES AND TO CHANGE LIMITATIONS RELATING TO THE SIZE AND NUMBER OF ACCESSORY STRUCTURES

WHEREAS, the City of Berlin Plan Commission has held a public hearing regarding the ordinance as set forth herein, on [insert applicable date]; and

Comment [MC1]: Will be inserted once known.

WHEREAS, the Plan Commission has recommended to the Common Council to approve the ordinance as set forth herein.

NOW THEREFORE, the Common Council of the City of Berlin do ordain as follows:

Sec. 82-4 of the Code of Ordinances shall be amended as follows:

Sec. 82-4. – Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.

...

~~Minor structure means a small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors, walls and fences which are under four feet in height.~~

...

Permanent location means a location intended to remain for seven days or more.

...

Structure means anything constructed or erected. The term "structure" shall be construed as though followed by the words "or parts thereof." The term, "structure" shall include any object, including a mobile object, constructed or installed by any person, including but not limited to buildings, walls, fences, towers, cranes, smokestacks, silos, earth formations, poles, overhead electric transmission lines, flag poles, tents, canopies, and carports, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

...

Comment [MC2]: After consultation with the building inspector, Lindsey and I thought it was appropriate to better clarify what it means to be "permanent". The building inspector is the one who suggested the seven day period as that is how he already makes such determination in practice.

Structure, permanent means a structure which requires a permanent location on the ground or attached to something having a permanent location on the ground.

...

Structure, temporary means a structure which is not a permanent structure but which remains on a lot for seven days or more, movable structure which is not designed for human occupancy, nor for the protection of goods or chattels, and does not form an enclosure, such as billboards.

...

Comment [MC3]: After consultation with the building inspector, Lindsey and I thought it made sense to better define this to only cover structures which are placed for 7 days or more. Thus, this will exclude truly temporary items such as wedding tents or background camping tents by kids, etc.

Sec. 82-22 of the Code of Ordinances shall be amended as follows:

Sec. 82-22. - Height and yard exceptions.

...

- (7) ~~There shall not be more than one residential building and one accessory building on one lot, except that a small storage building of 100 square feet or less, and one children's play structure, may be permitted in addition the requirements of this subsection.~~

...

Sec. 82-289 of the Code of Ordinances shall be amended as follows:

Sec. 82-289. - Area regulations.

Area regulations in the R-1 district shall be as follows:

...

- (5) Percentage of lot covered. All buildingsstructures, including the principal structure, detached garages and accessory buildingsstructures (including permanent structures and temporary structures), shall not cover more than 30 percent of the area of the lot, nor shall the total of all detached garages and accessory building(s)structures (including permanent structures and temporary structures) cover more than 30 percent of the rear yard. The combination of two previously platted or certified survey lots adjoining on the rear and both separately fronting on streets shall not be effective for purposes of increasing the total area of either lot for purposes of the 30 percent coverage requirements under this paragraph. Further, if two such lots are attempted to be combined into one lot via a new plat or certified survey map, the

Comment [MC4]: Note that with the new definitions, the 30% rule will only apply to permanent structures and temporary structures which are on the lot for seven days or more. Thus, temporary wedding tents or camping tents are not going to trigger a 30% rule compliance issue.

applicant for the plat or certified survey map shall be required, as a condition of approval, to record a notation on the plat or the certified survey map indicating that the combination of the two previous lots shall not be effective for purposes of increasing the total area of either lot for purposes of the 30 percent coverage requirements under this paragraph.

Chapter 82, Article IV of the Code of Ordinances shall be amended as follows:

ARTICLE IV. - ACCESSORY USES

Sec. 82-551. - Building permit required; application.

Within the city, no owner shall build, construct, use or place any accessory ~~building structure, including prefabricated accessory~~ whether a permanent structure or temporary structure ~~buildings whether a permanent structure or temporary structure,~~ except for (i) walks at ground level, patios/terraces at ground level, small decorative garden accessories such as decorative pools (not designed for swimming), fountains, statuary, sundials, flag poles, and (ii) structures, such as signs, which already require a special permit from the building inspector under this chapter 82, until a building permit shall have first been obtained from the building inspector. Application for an accessory building permit shall be made in writing to the building inspector. With such application, there shall be submitted a fee pursuant to chapter 14 of this Code, and a complete set of plans and specifications, including a plot plan or drawing which shall accurately show the location of the proposed accessory ~~building structure~~ with respect to adjoining alleys, lot lines and ~~buildings~~ other structures. If such application meets all requirements of this article, the application shall be approved.

Comment [MC5]: Note that with the new definitions, the requirement for a permit will only apply to permanent structures and temporary structures which are on the lot for seven days or more. Thus, temporary wedding tents or camping tents are not going to trigger a need for a permit. However, if a temporary structure is going to remain on the lot for seven days or more, it will require a permit.

Sec. 82-552. - Principal use to be present.

Except as otherwise provided hereafter, an accessory use or accessory structure in any zoning district shall not be established prior to the principal use or principal structure being present or under construction. On lots of five acres or more in A-1 or A-2 districts, accessory structures may be constructed prior to the principal structure, so long as the accessory structure is consistent with a permitted use for that district. Any accessory use or accessory structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided in this chapter.

Sec. 82-553. - Residential district placement restrictions.

An accessory use or accessory structure in a residential district within the city may be established subject to the following restrictions:

- (1) Accessory building/structure number and size limits. Except as expressly stated otherwise hereafter in this paragraph, in addition to the principal building structure (which includes any attached garage), a detached garage, one additional accessory building, and four play structures, and an unlimited number of

additional accessory structures (whether permanent structures or temporary structures) may be placed on a lot, subject to all percentage of lot covered limitations and other area regulations for the applicable district. However, accessory structures (whether permanent structures or temporary structures) having an individual floor area of greater than 50 square feet shall be limited to a cumulative maximum of three per lot (except that chicken coops shall not be counted toward this three per lot limit), and shall be limited to a cumulative floor area cap of 1,400 square feet for lots less than one acre, which cumulative floor area cap amount shall be increased by 100 square feet for every additional acre (or portion thereof) of lot size above one acre, up to a maximum cumulative floor area cap of 1,800 square feet, again subject to all percentage of lot covered limitations and other area regulations for the applicable residential district. However, Also, the limitation of four play structures per lot shall not be applicable to public parks and playgrounds, schools (excluding home schools) and state licensed daycare centers.

(3) *Detached accessory buildings/structures.*

- a. Except as provided in subsection 82-22(a) or elsewhere in this chapter, and for signs, outdoor lighting, and as hereafter provided for accessory structures exceeding 50 square feet in floor area, detached garages and accessory structures shall not exceed 15 feet in height. However, sSuch 15-foot height restriction may be exceeded for accessory structures (whether permanent structures or temporary structures) exceeding 50 square feet in floor area if both of the following conditions are met:
 1. The roof pitch of the ~~detached garage or~~ accessory ~~building~~structure architecturally matches the roof pitch of the principal structure; and
 2. The height of the ~~detached garage or~~ accessory ~~building~~structure does not exceed the height of the principal structure.
- b. ~~Detached garages and accessory buildingsstructures (excluding signs, outdoor lighting, fences and play structures – which are all subject to their own special limitations) shall not exceed 900 square feet, except that if there is more than one such detached garage or accessory buildingstructure on a lot, the second such buildingaccessory structure shall not exceed 500 square feet.~~
- eb. Except as provided in subsection 82-22(b) or elsewhere in this chapter, Ddetached garages or accessory buildingsstructures (whether permanent structures or temporary structures, but excluding signs, outdoor lighting, fences and play structures – which are all subject to their own special limitations) up to 100 square feet in size shall not be located closer than three feet to any side or rear lot line. Except as provided in subsection 82-22(b) or elsewhere in this chapter, Ddetached garages or accessory buildingsstructures (whether permanent structures or temporary structures, but excluding signs, outdoor lighting, fences and play structures – which are all subject to their own

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Comment [MC6]: Since my draft discussed at the February Plan Commission meeting, Lindsey pointed out that my previous margin comment stating that the construction standards set forth in Section 82-288(c) (requiring things like a roof slope of 2.5/12, specific types of exterior wall coverings, etc.) do not actually apply to accessory structures. That code section starts out by saying it applies to “residential dwellings” only, which is something that I missed when I read it the first time. Therefore, the PC should not count on those regulations being imposed on accessory structures as originally thought. If the PC wants, we can change that section to say that some or all of such regulations do apply to accessory structures, or perhaps only accessory structures greater than 50 square feet. Section 82-288(c) reads as follows:

Sec. 82-288. - Construction regulations.

- (c) Residential dwellings constructed on site or manufactured homes attached to a foundation shall meet the following minimum construction standards in addition to complying with all applicable codes:
 - (1) Have a standing seam or ribbed pre-finished metal, wood-shake, asphalt or fiberglass shingle roof with a minimum slope of 2.5:12.
 - (2) Have exterior wall coverings consisting of any of the following materials or combinations thereof:
 - a. Aluminum, steel or vinyl siding;
 - b. Wood or simulated wood; or
 - c. Brick, stone or stucco.
 - (3) Be attached to a frost free (meaning constructed below the frost line) permanent foundation meeting the requirements of the state uniform dwelling code and approved by the building inspector, which surrounds the entire perimeter of the structure and completely encloses the space between siding and the finished grade.
 - (4) Manufactured homes must have any running gear and towing hitch removed and have an anchoring system that is totally concealed under the structure.
 - (5) Is constructed and installed pursuant to a building permit and subject to all required inspections to insure that the foundation and all on-site work is constructed to minimum standards and that a manufactured home is assembled or placed on-site in accordance ... [1]

special limitations) over 100 feet and up to 500 square feet in size shall not be located closer than six feet to any side or rear lot line. Except as provided in subsection 82-22(b) or elsewhere in this chapter, D detached ~~garages or accessory buildings~~ structures (whether permanent structures or temporary structures, but excluding signs, outdoor lighting, fences and play structures – which are all subject to their own special limitations) over 500 square feet in size shall have the same side and rear yard setbacks as required in this chapter for the principal structure on such lot.

dc. Except for signs, outdoor lighting, fences, and as provided in subsection 82-22(b) or elsewhere in this chapter, Aa detached ~~garage or~~ accessory ~~building~~ structure (whether a permanent structure or temporary structure) shall not be closer than ten feet to the principal structure, unless the applicable building code regulations in regard to one-hour fire-resistive construction are complied with.

ed. Except for signs, outdoor lighting, fences, and as provided in subsection 82-22(b) or elsewhere in this chapter, D detached accessory ~~buildings or~~ structures (whether permanent structures or temporary structures) shall not be located in the front yard of any lot, except that one play structure shall be allowed in the front yard of corner lots which have rear yards of 20 feet or less.

fe. Play structures shall not be located closer than three feet to any lot line.

Sec. 82-554. - Residential use restrictions.

Accessory uses or accessory structures in residential districts within the city shall not involve the conduct of any business, trade or industry, except for home occupations as defined in section 82-4. Accessory ~~buildings-structures~~ shall not be used for ~~residential purposes~~ human occupancy.

Sec. 82-555. - Nonresidential district placement restrictions.

Except for signs, fences, and as provided in subsection 82-22(b) or elsewhere in this chapter, Aa an accessory use or accessory structure (whether a permanent structure or temporary structure) in a business or manufacturing district may only be established in the rear yard or side yard, and shall not be closer than three feet to any side or rear lot line.

Sec. 82-556. - Reversed corner lots.

Except for signs, fences, and as provided in subsection 82-22(b) or elsewhere in this chapter, If an accessory structure (whether a permanent structure or temporary structure) is located on the rear of a reversed corner lot within the city, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor closer than three feet to the side line of the adjacent structure.

Sec. 82-557. - Landscaping; ~~tents~~.

- (a) Accessory vegetation used for landscaping and decorating within the city may be placed in any required yard area. Permitted vegetation shall include trees, shrubs, flowers and gardens.

(b) ~~Tents may not be used as a dwelling or an accessory structure.~~

Sec. 82-558. - ~~Temporary uses.~~ Reserved.

~~Temporary accessory uses within the city, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the zoning administrator.~~

...

Sec. 82-561. - Lawn accessories.

Walks at ground level, ~~drives, paved patios/terraces at ground level~~, and decorative garden accessories such as decorative pools (not designed for swimming), fountains, statuary, sundials, flag poles, etc., shall be permitted in setback areas within the city, but shall not be located closer than three feet to an abutting property line, other than a street line.

...

Sec. 82-563. - ~~Children's p~~Play structures.

Play structures shall be considered accessory structures, and shall comply with the requirements of this article accordingly. Play structures shall not be used for storage or be constructed out of materials that would constitute a nuisance.

...

This ordinance shall take effect the day after publication.

The numeric section numbers and headings of any portions of the Code of Ordinances affected by this Ordinance shall be subject to modification in the discretion of the codifier, and the approval of the City Attorney, during codification into the City's current Code of Ordinances.

Passed, approved and adopted this ____ day of _____, 2021.

ROLL CALL VOTE:

CITY OF BERLIN

____ AYES
____ NAYS
____ ABSENT

BY: _____
Richard D. Schramer, Mayor

APPROVED AS TO FORM:

ATTEST: _____
Jodie Olson, City Clerk

Matthew G. Chier, City Attorney

Since my draft discussed at the February Plan Commission meeting, Lindsey pointed out that my previous margin comment stating that the construction standards set forth in Section 82-288(c) (requiring things like a roof slope of 2.5/12, specific types of exterior wall coverings, etc.) do not actually apply to accessory structures. That code section starts out by saying it applies to “residential dwellings” only, which is something that I missed when I read it the first time. Therefore, the PC should not count on those regulations being imposed on accessory structures as originally thought. If the PC wants, we can change that section to say that some or all of such regulations do apply to accessory structures, or perhaps only accessory structures greater than 50 square feet. Section 82-288(c) reads as follows:

Sec. 82-288. - Construction regulations.

...

(c)

Residential dwellings constructed on site or manufactured homes attached to a foundation shall meet the following minimum construction standards in addition to complying with all applicable codes:

(1)

Have a standing seam or ribbed pre-finished metal, wood-shake, asphalt or fiberglass shingle roof with a minimum slope of 2.5:12.

(2)

Have exterior wall coverings consisting of any of the following materials or combinations thereof:

a.

Aluminum, steel or vinyl siding;

b.

Wood or simulated wood; or

c.

Brick, stone or stucco.

(3)

Be attached to a frost free (meaning constructed below the frost line) permanent foundation meeting the requirements of the state uniform dwelling code and approved by the building inspector, which surrounds the entire perimeter of the structure and completely encloses the space between siding and the finished grade.

(4)

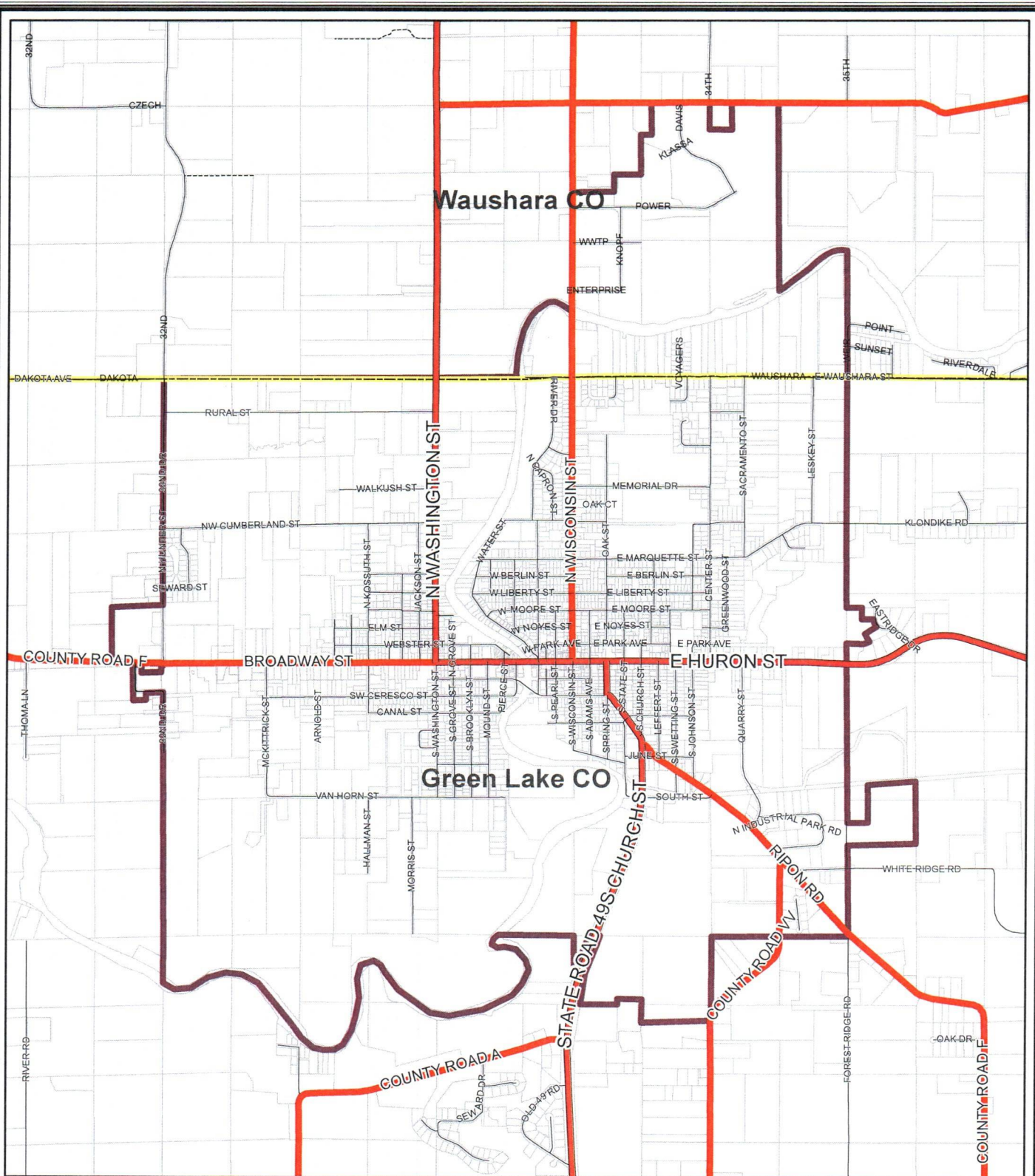
Manufactured homes must have any running gear and towing hitch removed and have an anchoring system that is totally concealed under the structure.

(5)

Is constructed and installed pursuant to a building permit and subject to all required inspections to insure that the foundation and all on-site work is constructed to minimum standards and that a manufactured home is assembled or placed on-site in accordance with the manufacturer's instructions, and to assure that it is in compliance with standards regulating the anchoring of the structure to its foundation and other building requirements.

(6)

Be properly connected to all applicable utilities.



City of Berlin Street Map

- County Lines
- Berlin Municipal Boundary

