

**CHAPTER 9**

**ZONING**

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Section I Interpretation and Purposes

The provisions of this ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, comforts, prosperity and general welfare of the City of Augusta, Wisconsin.

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, or agreements between parties or with any rules, regulation or permits previously adopted or issued pursuant to laws; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements covenants or agreements the provisions of this ordinance shall govern.

## Section II Districts

(1) For the purpose of this ordinance, the City of Augusta, Wisconsin, is hereby divided into six (6) districts as follows:

- a. Residential-Single Family Dwellings-Agricultural District
- b. Residential-Two Family Dwellings
- c. Residential-Multiple Family Dwellings
- d. Commercial District
- e. Light Industrial District
- f. Heavy Industrial District

(2) The boundaries of the aforesaid districts are established as shown on the map entitled "District Map, City of Augusta, Wisconsin", dated March 4, 1952, which map accompanies and is made a part of the ordinance. All notations or references shown on the District Map are as much a part of this ordinance as though specifically described herein.

(a) The district boundaries are either streets or alleys, unless otherwise shown, and where the designation on the District Map indicates that the various districts are approximately bounded by a street or alley line shall be construed to be the district boundary line.

(a) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the District Map are approximately bounded by lot lines, said lot lines, shall be construed to be the boundary of the district.

(c) In unsubdivided property, the district boundary lines shown on the District Map shall be determined by use of the scale shown on such map.

## Section III Definitions

For the purposes of this ordinance, certain words and terms are defined as follows:

(1) Words used in the present tense include the future; the singular number indicates the plural number and the plural number includes the singular number; the word "building" includes the word "structure", the word "shall" is mandatory and not directory. Any words not herein defined shall be construed as defined in the state and city building codes.

(2) Accessory Building. A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises. When an accessory building is a part of the main building or is located less than ten (10) feet from the main building shall be applied to the accessory building.

(3) Alley. A street or thoroughfare less than twenty-one (21) feet wide and affording only secondary

access to abutting property.

(4) Apartment House. See "Multiple Dwelling."

(5) Basement. A story partly underground which, if occupied for living purposes, shall be counted as a story for purposes of height measurement.

(6) Boarding House. A building other than a hotel where meals or lodging and meals are furnished for compensation for three (3) or more persons not members of a family.

(7) Building. Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. When a building is divided into separate parts by unpierced walls extending from the ground up each part shall be deemed a separate building.

(8) Building, Height of. The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.

(9) Dwelling, One Family. A detached building designed for or occupied exclusively by one family.

(10) Dwelling, Two Family. A detached or semi detached building designed for and occupied exclusively by two (2) families.

(11) Dwelling, Multiple. A building or portion thereof designed for and occupied by more than two (2) families including tenement houses, row houses, apartment houses and apartment hotels.

(12) Family. The body of persons who live together in one (1) dwelling unit as a single housekeeping entity.

(13) Frontage. All the property abutting on one side of a street between two (2) intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

(14) Garage, Private. An accessory building or space for the storage only of not more than two (2) motor-driven vehicles.

(15) Garage, Public. Any buildings or premises, other than a private or a storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

(16) Garage, Storage. Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold. No commercial motor vehicle exceeding two (2) tons capacity shall be stored in any storage garage.

(17) Home. Occupation. A gainful occupation conducted by members of the family only, within their place of residence; provided that no article is sold or offered for sale on the premises except such as is produced by such occupation, that no stock is traded, kept or sold, that no mechanical equipment is used other than such as is permissible for purely domestic purposes, that no sign other than one (1) unlighted name plate not more than one (1) foot square is installed and that no person other than a member of the immediate family living on the premises is employed.

(18) Hotel. A building in which lodging, with or without meals, is offered to transient guests or compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.

(19) Lodging House. A building other than a hotel where lodging is provided for compensation for not more than three (3) persons not members of the family.

(20) Lot. A parcel of land having a width and depth sufficient to provide the space necessary for one main building and its accessory building together with the open spaces required by this ordinance and abutting on a public street or officially approved place. All residential lots upon which construction is to occur shall require a minimum street frontage of fifty (50) feet.

(21) Lot, Corner. A lot abutting on two (2) or more streets at their intersection, provided that the interior angle of such intersection is less than one hundred thirty-five (135) degrees.

(22) Lot, Depth of. The mean horizontal distance between the front and rear lot lines.

(23) Lot, Interior. A lot other than a corner lot.

(24) Lot, Through. An interior lot having frontage on two (2) non-intersecting streets.

(25) Lot Lines. The lines bounding a lot as defined herein.

(26) Nonconforming Use. A building or premises lawfully used or occupied at the time of the passage of this ordinance or amendments thereto, which use or occupancy does not conform to the regulations of this ordinance or any amendments thereto.

(27) Public Airport. Any airport which complies with the definition contained in [§114.013\(3\), \(6\), or \(9\), Wisconsin Statutes](#), or any airport which serves or offers to serve common carriers engaged in air transport.

(28) Setback. The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof, excluding uncovered steps.

(29) Stable. "Stable" shall have the same meaning as "garage". One draft animal being considered the equivalent of one self-propelled vehicle.

(30) Street. All property dedicated or intended for public or private street purposes or subject to public easement therefore and twenty-one (21) feet or more in width.

(31) Story. That portion of a building included between the surface of a floor and the space of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having one-half or more of its height above grade shall be deemed a store for purposes of height regulation.

(32) Story, Half. The space under any roof except a flat roof, which, if occupied for residential purposes shall be counted as a full story.

(33) Street Line. A dividing line between a lot, tract or parcel of land and a continuous street.

(34) Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having permanent location on the ground.

(35) Structural Alterations. Any change in the supporting members of a building or any substantial change in the roof structure or in the exterior walls.

(36) Temporary Structure. A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

(37) Tourist Camp. A tract or parcel of land, with or without buildings, or other equipment, on which one (1) or more camp cabins are located, or where temporary accommodations are provided for two (2) or more automobile trailers or house cars, open to the public free or for a fee.

(38) Vision Clearance. An unoccupied triangular space at the street corner of a lot which is bounded by the street lines and a setback line connecting and unobstructed from the ground upwards except as otherwise provided herein.

(39) Yard. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise proved herein.

(40) Yard, Front. A yard extending the full width of the lot between the front lot line and the nearest part of the main building, excluding uncovered steps.

(41) Yard, Rear. A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the building, excluding uncovered steps.

(42) Yard, Side. A yard extending from the front yard to the rear yard, being the minimum horizontal distance between a building and side lot line.

(43) Adult Book Store. An establishment having as a predominant portion of its stock in trade, books, magazines and other periodicals, or video cassettes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to **◆Specified Sexual Activities◆** or **◆Specified Anatomical Areas◆** (as defined herein).

(44) Adult Cabaret. A nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specific sexual activities or by exposure of specific anatomical areas or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons. An adult cabaret does not include theaters, performing arts centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(45) Specified Anatomical Area.

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola;
- (b) Human male genitals in a discernible turgid state even if completely and opaquely covered.

(46) Specified Sexual Activities.

- (1) Human genitals in a state of sexual stimulation or arousal; or
- (2) acts of human masturbation, sexual intercourse or sodomy; or
- (3) fondling or other erotic touch of human genitals, public region, buttock or female breast.

#### Section IV General Provisions

A. Except as otherwise provided:

(1) The use and height of buildings hereafter erected. Covered, enlarged, or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.

(2) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.

No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space for another building.

(3) Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one (1) main building on one (1) lot.

(4) Nonconforming uses:

(a) The existing lawful use of a building or premises at the time of the enactment of this ordinance or any amendment thereto may be continued although such use does not conform with the provisions of this ordinance for the district in which it is located, but such nonconforming use shall not be extended.

(b) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use of a conforming use, such use shall not thereafter be changed to a less restricted use.

(c) If a nonconforming use of a building or premises is discontinued for a period of twelve (12) months, any future use of the building or premises shall conform to the regulations for the district in which it is located.

(d) When a building containing a nonconforming use is damaged by fire, explosion, act of God or the public enemy to the extent of more than fifty (50) percent of its current local assessed value, it shall not be restored except in conformity with the regulations of the district in which it is located. The total structural repairs or alterations in any nonconforming use shall not during its life exceed fifty (50) percent of the local assessed value of the building at the time of its becoming a nonconforming use.

(5) Nothing herein contained shall require any changes in the plans, construction, size or designated use of any building or part thereof for which plans have been made and construction started before the effective date of this ordinance.

(6) On any Commercial or Industrial District, wherever a lot abuts upon a public or private alley, sufficient space for the loading and unloading of vehicles shall be provided on the lot in connection with any commercial or industrial use so that the alley shall at all times be free and unobstructed to the passage of traffic.

(7) Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.

(8) When a housing project consisting of a group of four (4) or more buildings is to be constructed on a site not subdivided into customary lots and streets or where an existing lot and street layout make it impractical to apply the Commission may approve a development plan provided it complies with the regulations of this ordinance as applied to the whole plat.

B. Height and Area Exceptions. The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

(1) Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding sixty (60) feet nor five (5) stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

(2) Chimneys; cooling towers; elevator bulkheads; fire towers; monuments; penthouses; stacks; scenery lofts; tanks; water towers; ornamental towers; spires; wireless, television or broadcasting towers; masts or aerials, microwave radio relay structures, telegraph, telephone and power poles and lines and necessary mechanical appurtenances are hereby excepted from the height regulations of this ordinance and may be erected in accordance with other regulations or ordinances of the City of Augusta.

(3) Residences in the Residence-Agricultural District may be increased in height by not more than ten (10) feet when all yards and other required open spaces are increased by one (1) foot for each foot which such building exceeds the height limit of the district in which it is located.

(4) Where a lot abuts on two (2) or more streets or alleys having different average established grades, the height of such grades shall control only for a depth of one-hundred (100) feet from the line of the higher average established grade.

(5) Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be in compliance with.

(6) Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this ordinance, such lot may be occupied by one (1) family.

(7) Accessory buildings which are not a part of the main buildings shall not occupy more than thirty (30) percent of the area of the required rear yard, shall not be more than fourteen and one-half (14 1/2) feet high and shall not be nearer than five (5) feet to any lot line.

(8) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard, and the ordinary projections of stills, belt courses, cornices and ornamental features projecting not more than twelve (12) inches.

(9) Open or enclosed fire escapes and fire towers may project into a required yard not more than five (5) feet, and into a required court not more than three and one-half (3 1/2) feet, provided it be so located as not to obstruct light and ventilation.

C. Fences. Fences, walls and continuous linear shrubbery such as hedges shall be subject to the following requirements and limitations:

(1) All fences, walls and continuous linear shrubbery in the city shall be subject to the following:



(a) Fences located in the area from the rear of the principal building to ten (10) feet from the rear lot line, and not within ten (10) feet of the side lot line shall not exceed eight (8) feet in height.

(b) The side on which the facing is applied to fence posts shall constitute the facing side of the fence. The facing side of each fence shall always be applied on the exterior side of the fence, e.g. the facing shall be applied so that neighboring lots and streets are exposed to facing rather than fence posts.

(c) Regardless of placement on any lot, no fence within the city shall exceed the height of the principal structure on any lot.

(2) Fences, walls and continuous linear shrubbery located within ten (10) feet of the side lot lines or rear lines, and fences located within the required setbacks on sides fronting on streets shall be to the following:

(a) Solid walls in excess of four (4) feet in height are prohibited. Solid walls are defined as walls which do not permit the passage of air and light.

(b) Fences in residential districts located within five (5) feet of any lot line shall not exceed four (4) feet in height, except that fences up to six (6) feet in height may be erected on the rear of the principal building to the rear lot line.

(c) Fences in residential districts which are covered by this subsection and which are not within five (5) feet of lot lines may not exceed six (6) feet in height.

(d) If the rear lot line of a lot is common with the side lot line of an abutting lot, that portion of the rear lot line even with the required front yard of the abutting lot shall not be fenced to a height of more than four (4) feet, notwithstanding other provisions of this ordinance.

(e) Fences in Commercial and Industrial Districts shall not exceed a height of six (6) feet. However, such fences may also include security arms for barbed wire adding up to an additional two (2) feet height limit.

(f) All fences exceeding four (4) feet in height shall be open to the extent that thirty percent (30%) of their area shall allow the passage of air and/or light.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

#### D. Conditional Use Permits

(1) Applicability. A conditional use permit shall be required for the establishment of each use permitted as conditional use and for any addition to, or expansion or intensification of, a nonconforming use. Expansion of a use permitted as a conditional uses shall also require a conditional use permit, except that the minor expansion of a building housing a use permitted as a

conditional use which would not increase the scale or intensity of that use shall only require a building permit.

(2) Approval required. (a) Any conditional use listed in this ordinance shall be permitted only as authorized in a permit issued by the Plan Commission, following application and public hearing. (b) Unless determined otherwise by the Plan Commission, all conditional use permits shall expire 12 months from the date of issuance unless the authorized use has been established.

(3) Basis of approval. The Plan Commission shall consider the effect of such grant on the health, general welfare, safety, and economic prosperity of the county and of the immediate area in which such use would be located; including such considerations as the effect on established character and quality of an area, its physical attractiveness, existing topography, drainage features, erosion potential, vegetative cover, the prevention and control of water pollution, the location with respect to flood plains, and floodways, the movement of traffic, and the relationship to existing or proposed roads, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect resulting from noise, dust, smoke, odor, and other factors.

(4) Conditions which may be required. Upon consideration of the factors listed above, the Plan Commission may attach such conditions, in addition to those required elsewhere in this chapter, that it deems necessary to further the purpose of this chapter. Violation of any of these conditions shall be deemed a violation of this chapter. Such conditions may include, without limitations because of specific enumeration, increased setbacks and yards, specified waste disposal and water supply facilities, landscaping and planting screens, operational controls, sureties and deed restrictions.

(5) Procedure.

(a) Application. Application for a conditional use permit shall be made to the City Zoning Administrator who shall promptly refer the application to the Plan Commission. In addition to the information required for a land use permit, the Plan commission may require the applicant to submit other pertinent data and information necessary to properly evaluate the request.

(b) Fees. The fee for filing of application for the conditional use permits shall be \$125.00.

(c) Hearing. The Plan Commission shall schedule a public hearing on the application within 30 days after it is filed. Notice shall be given as required in Section XII of this chapter.

(6) Determination. The Plan Commission shall report its decision within 90 days after the filing of the application. Its decision shall include an accurate description of the use permitted, of the property on which it is permitted, and all condition made applicable there thereto.

(7) Mapping and recording. When a conditional use permit is granted, an appropriate record shall be made of the land use and building permits, and such grant shall be applicable solely to the structures, use and property so described.

(8) Termination. Where a permitted conditional use does not continue in conformity with the

conditions of the original approval, the conditional use permit shall be terminated by action of the Zoning Administrator, which determination may be appealed to the Plan Commission by written appeal filed with the City Clerk within 30 days of said determination.

#### Section V Residential-Single Family Dwelling, Agricultural District

Use. In the Residence-Agricultural District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this ordinance, except for one or more following uses:

(1) Single family dwellings.

(2) Churches, public schools, parochial schools, colleges and universities, including dormitories, public libraries, public museums and art galleries. Municipal buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards and penal or correctional institutions. Public recreational and community center buildings and grounds.

(3) Telephone buildings, exchanges and lines, and static transformer stations, provided there relay structures unless and until the location thereof shall first have been approved by the City Plan Commission.

(4) Truck gardening, crop farming nurseries and greenhouses only for the propagation of plants; provided that greenhouse heating plants shall be placed not less than seventy-five (75) feet from every property line.

(5) Accessory buildings or one (1) private garage. On tracts of land of more than ten (10) acres in area, one (1) private stable when located not less than one-hundred fifty (150) feet from all lot lines.

(6) Not over two (2) boarders or lodgers not members of the family.

(7) Railroad right of way and passenger depots, not including switching, storage, freight yards of siding.

(8) Uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business: including home occupations not involving the conduct of a business on the premises.

(9) Storage garage only as an accessory to a multiple family dwelling, provided there be not less than four-thousand (4,000) square feet of lot area per car.

(10) Professional or announcement signs not over one (1) square foot in area, except that public or religious institutions may have, for their own use, an announcement sign or bulletin board not over eight (8) square feet in area; signs not over four (4) square feet in area pertaining to the lease, hire, or sale of a building or premises, provided that no advertising sign of any other character shall be

permitted in the Residence-Agricultural District; and provided further that all permitted signs shall be located within the lot lines and at least twenty (20) feet from the inside sidewalk line.

(11) Conditional Uses:

- (a) Day care for children;
- (b) Day care for adults;
- (c) Bed and Breakfast establishments;
  
- (d) Cemeteries;
- (e) Farmers Market, locally grown produce, or Christmas tree sales;
- (f) Greenhouses or nursery;
- (g) Home occupations;
- (h) Nursing homes;
- (i) Private Club or Lodge;
- (j) Community Living Apartments;
- (k) Golf courses, parks, playgrounds and picnic grounds;
- (l) Accessory residences or accessory apartments;
- (m) Utility facilities;
- (n) Livestock raising on a parcel ten acres or larger. (Effective 1-25-08)

#### Section VI Residential-Two Family Dwellings

Use. In the Residential-Two Family Dwelling district the use shall be the same as in the single family dwelling district with up to two (2) families being allowed to dwell in a single building.

(1) Two family dwellings.

(2) Churches, public schools, parochial schools, colleges and universities, including dormitories, public libraries, public museums and art galleries. Municipal buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yard and penal or correctional institutions. Public recreational and community center buildings and grounds.

(3) Telephone buildings, exchanges and lines, and static transformer stations, provided there be no service or storage yard. This regulation, however, shall not include microwave radio relay structures unless and until the location thereof shall first have been approved by the City Plan Commission.

(4) Farming, truck gardening, chicken, game, fur and stock farms and farms operated for the disposal of garbage, rubbish or offal; nurseries and greenhouses only for the propagation of plants; provided that greenhouse heating plants and buildings in which farm animals are kept shall be distant not less than seventy-five (75) feet from every property line. No livestock shall be maintained or sheltered on any tract of land of ten (10) acres or less in area.

(5) Accessory buildings or one (1) private garage. On tracts of land of more than ten (10) acres in area, one (1) private stable when located not less than one-hundred fifty (150) feet from all lot lines.

(6) Not over two (2) boarders or lodgers not members of the family.

(7) Railroad right-of-way and passenger depots, not including switching, storage, freight yard or siding.

(8) Uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business; including home occupations not involving the conduct of a business on the premises.

(9) Storage garage only as an accessory to a multiple family dwelling, provided there be not less than four-thousand (4,000) square feet of lot area per car.

(10) Professional or announcement signs not over one (1) square foot in area, except that public or religious institutions may have, for their own use, an announcement sign or bulletin board not over eight (8) square feet in area; signs not over four (4) square feet in area pertaining to the lease, hire, or sale of a building or premises, provided that no advertising sign of any other character shall be permitted in the Residence-Agricultural District; and provided further that all permitted signs shall be located within the lot lines and at least twenty (20) feet from the inside sidewalk line.

(11) Conditional Uses:

(a) Day care for children;

(b) Day care for adults;

(c) Bed and Breakfast establishments;

(d) Cemeteries;

(e) Farmers' Market, locally grown produce, or Christmas tree sales;

(f) Greenhouses or nursery;

(g) Home occupations;

(h) Nursing homes;

(i) Private Club or Lodge;

(j) Community Living Apartments;

(k) Golf courses, parks, playgrounds and picnic grounds;

(l) Accessory residences or accessory apartments;

(m) Utility facilities.

#### Section VII Residential-Multiple Family Dwellings

Use. In the Residential-Multiple Family Dwelling district the use shall be the same as in the single and two (2) family districts will all dwellings of over two (2) families being restricted to this district.

(1) Multiple family dwellings.

(2) Churches, public schools; parochial schools, college and universities, including dormitories, public libraries, public museums and art galleries. Municipal buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards and penal or

correctional institutions. Public recreational and community center buildings and grounds.

(3) Telephone buildings, exchanges and lines, and static transformer stations, provided there be no service garage or storage yard. This regulation, however, shall not include microwave radio relay structures unless and until the location thereof shall first have been approved by the City Plan Commission.

(4) Farming, truck gardening, chicken, game, fur and stock farms and farms operated for the disposal of garbage, rubbish or offal; nurseries and greenhouses only for the propagation of plants; provided that greenhouse heating plants and buildings in which farm animals are kept shall be distant not less than seventy-five (75) feet from every property line. No livestock shall be maintained or sheltered on any tract of land of ten (10) acres or less in area.

(5) Accessory buildings or one (1) private garage, on tracts of land of more than ten (10) acres in area, one (1) private stable when located not less than one-hundred fifty (150) feet from all lot lines.

(6) Not over two (2) boarders or lodgers not members of the family.

(7) Railroad right-of-way and passenger depots, not including switching, storage, freight yard or siding.

(8) Uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business; including home occupations not involving the conduct of a business on the premises.

(9) Storage garage only as an accessory to a multiple family dwelling, provided there be not less than four thousand (4,000) square feet of lot area per car.

(10) Professional or announcement signs not over one (1) square foot in area, except that public or religious institutions may have, for their own use, an announcement sign or bulletin board not over eight (8) square feet in area; signs not over four (4) square feet in area pertaining to the lease, hire, or sale of a building or premises, provided that no advertising sign of any other character shall be permitted in the Residence-Agricultural District; and provided further that all permitted signs shall be located within the lot lines and at least twenty (20) feet from the inside sidewalk line.

(11) Conditional Uses:

(a) Day care for children;

(b) Day care for adults;

(c) Dean and Breakfast establishments;

(d) Cemeteries;

(e) Farmers Market, locally grown produce, or Christmas tree sales;

- (f) Greenhouses or nursery;
- (g) Home occupations;
- (h) Nursing homes;
- (i) Private Club or Lodge;
- (j) Community Living Arrangements;
- (k) Golf courses, parks, playgrounds and picnic grounds;
- (l) Accessory residences or accessory apartments❖
- (m) Utility facilities.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

#### Height and Area.

In the Residence-Agricultural District, the height of buildings, the minimum dimensions of yards and the minimum lot area per family shall be as follows:

Height. Buildings hereafter erected or structurally altered for residential purposes shall exceed neither thirty-five (35) feet nor two and one-half (2 1/2) stories in height. See Section IV, B1, 2, 3 & 4.

Side Yard. There shall be a side yard on each side of a building.

For buildings not over one and one-half (1 1/2) stories high, the sum of the widths of the required side yards shall not be less than ten (10) feet, and no single side yard shall be less than five (5) feet in width.

For buildings from one and one-half (1 1/2) stories high, the sum of the widths of the required side yards shall be no less than ten (10) feet, and no single side yard shall be less than five (5) feet in width.

Provided, however, that on a single lot having a width of less than seventy-five (75) feet and of record at the time of the passage of this ordinance, the sum of the widths of the side yards shall be not less than the equivalent of .48 inches per foot of lot width for buildings not over one and one-half (1 1/2) stories high and of .56 inches per foot of lot width for buildings from one and one-half (1 1/2) to two and one-half (2 1/2) stories high; provided further, that the buildable width of any such lot in no case shall be reduced to less than twenty-four (24) feet, nor shall the width of any single side yard be less than forty percent (40%) of the total required side yard width. See Section IV, A2, 7, 8, B8 & 9.

Setback. Unless otherwise provided, there shall be a setback line of not less than twenty-five feet, provided that:

(1) Where forty percent (40%) or more of the frontage is occupied with buildings having an average setback line of more or less, than twenty-five (25) feet, no building hereafter erected or structurally altered shall project beyond the average setback line so established; provided further, that in no case shall a setback line of more than fifty (50) feet be required.

Rear Yard. There shall be a rear yard having a minimum depth of twenty-five (25) feet. See Section IV, A2, 7, 8 & B5.

Lot Area Per Family. Every building hereafter erected or structurally altered for occupancy by one (1) family shall provide a lot area of not less than seven thousand five hundred (7,500) square feet per family. Every building hereafter erected or structurally altered for occupancy by more than one (1) family shall provide a lot are of not less than five thousand (5,000) square feet per family, and no such lots shall be less than seventy-five feet in width. See Section IV, 2, 8 & B6.

#### Section VIII Commercial District

Use. In the Commercial District no building or premises shall hereafter be erected or structurally altered, unless otherwise provided in this ordinance, except for one or more of the following uses:

(1) Any use permitted in Section V-- use of this ordinance except item four (4) and five (5) thereof.

(2) Any of the following specified uses:

(1) Art Shop.

(2) Automobile sales and service establishments, public garages and parking lots shall restrict inoperable vehicles or portions thereof, to be stored outside of a building for more than 96 hours.

(3) Bakery (retail).

(4) Barber shop, beauty parlor.

(5) Boarding and lodging houses.

(6) Business and professional offices.

(7) Candy store, confectionery store.

(8) Clinic.

(9) Dress shop, clothing store, notion shop, dry goods store, hosiery shop, tailor shop.

(10) Drug store, pharmacy.

(11) Florist shop.

(12) Food products (retail).

(13) Furniture store.

(14) Gift shop.

(15) Grocery store (retail), delicatessen, meat and fish market, fruit and vegetable market.

(16) Hardware store.

(17) Hotels.

(18) Ice cream store, soda fountain, soft drink stand.

(19) Jewelry store.

(20) Microwave radio relay structures.

(21) Music and radio store.

(22) Newsstand.

(23) Photographer and photographer's supplies.

(24) Temporary structures.



- (25) Theaters and places of amusement, except drive-in theaters.
- (26) Tourist camp.
- (27) Undertaking establishments.
- (28) Any other uses similar in character and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises.
- (29) Such accessory uses as are customary in connection with the foregoing uses and are incidental thereto.

#### Height and Area

In the Commercial District the height of buildings, in minimum dimensions of yard and the minimum lot area per family shall be as follows:

**Height.** Buildings hereafter erected or structurally altered shall exceed neither forty-five (45) feet nor three (3) stories in height. See Section IV, B1 & 2.

**Side Yard.** For buildings or parts of buildings hereafter erected or structurally altered for residential use, the side yard regulations for the Residence-Agricultural District shall apply.

**Setback.** Where parts of the frontage are designated on the District Map as Residence-Agricultural District and Commercial District, the setback regulations on the Residence-Agricultural District shall apply to the Commercial District; otherwise no setback shall be required.

**Rear Yard.** There shall be a rear yard having a minimum depth of twenty-five (25) feet for a building two (2) stories or less in height. For each additional story or fractional story in height, the depth of such rear yard shall be increased five (5) feet. See Section IV, A2, 8 B5, 7, 8 & 9.

**Lot Area Per Family.** Every building or part of a building hereafter erected or structurally altered for residential purposes shall provide a lot area of not less than seven thousand five hundred (7,500) square feet per family. See Section IV, A2 & B6.

**Vision Clearance.** There shall be a vision clearance of not less than ten (10) feet extending from the curb level to the ceiling line of the ground floor, but in no case shall such vision clearance be less than twelve (12) feet high.

#### Adult Book Store or Adult Cabaret

(1) Findings and Purpose. The council finds that due to the nature, the existence of adult book stores and adult cabarets in the city has serious objectionable operational characteristics, such as an effect upon property values, local commerce and crime. Due to the deleterious combined effect on adjacent areas when such uses are concentrated, they should not be permitted to be located in close proximity to each other. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or down grading of the surrounding neighborhood. Such regulations are contained in these standards. These standards are designed to protect the city.

retail trade, maintain property values, prevent crime, and, in general, protect and preserve the quality of the city's neighborhoods, commercial district and the quality of urban life.

(2) Standards, An adult book store or adult cabaret is permitted in the Commercial District, provided that:

(a) Such use shall not be located within 1,000 feet of any Residence-Agricultural district, except that this limit shall not apply to any commercial area North of U.S. Highway 12 and East of Sand Street.

(b) Such use shall not be located within 1,000 feet of a public school, private school, or licensed Day Care Center.

(c) Such use shall not be located within 1,000 feet of any other adult bookstore or adult cabaret.

(d) The distances provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the lot upon which the proposed use is to be located, to the nearest point of the zoning district boundary line or the lot from which the proposed use is to be separated.

(3) Violation of these provisions is declared to be public nuisance

(4) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any city ordinance or statute of the State or Wisconsin regarding public nuisance, sexual conduct, Lewdness or obscene or harmful matter or the exhibition or public display thereof.

(Adopted July 9, 2002)

#### Section IX Light Industrial District

Use. In the Light Industrial District no building or premises shall be used and no building shall be erected or structurally altered, unless otherwise provided in this ordinance, except for one (1) or more of the following uses:

(1) Any use permitted in the Commercial District, except residential, educational or institutional uses; provided, however, that the dwelling house for a watchman or caretaker employed on the premises may be erected.

(2) Wholesale business.

(3) Printing and publishing.

(4) Manufacture of products from paper, but not the manufacture of paper or pulp.

(5) Repair, service and assembly of motor-propelled or non motor-propelled vehicles, including the repair and storage of automotive accessories, except the wrecking of motor-propelled vehicles and no inoperable vehicles or portions thereof, may not be stored outside of a building for more than 96

hours.

(6) Storage and warehousing of fuel and materials and contractor's yards, except the storage of wrecked and dismantled vehicles, junk, explosives or inflammable gases or liquids or inoperable vehicles or portions thereof, may not be stored outside of a building for more than 96 hours.

(7) Manufacture and bottling of non-alcoholic beverages.

(8) Processing, packing and manufacture of food, except meat and meat products, fish and fish products, sauerkraut and cabbage by-products or the vining of peas.

(9) Manufacture of products from wood, except the manufacture of paper pulp and plastics.

(10) Manufacture of sporting goods, home and office appliances and supplies.

(11) Manufacture of goods from leather, but not tanning of hides or manufacture of leather.

(12) Knitting mills and the manufacture of products from finished fabrics.

(13) Cleaning, dyeing and pressing establishments and laundries, except bay cleaning.

(14) Laboratories.

(15) Manufacture of jewelry and cosmetics.

(16) Manufacture of cigars, cigarettes and smoking tobacco.

(17) Enameling and painting.

(18) Blacksmithing, tinsmithing, sheet metal working and plumbing shops.

(19) Manufacture of goods from plastics.

Height and Area.

In the Light Industrial District the height of buildings, the minimum dimensions of yard and minimum lot area per family shall be as follows:

Height. Buildings hereafter erected or structurally altered shall exceed neither sixty-five (65) feet nor five (5) stories in height. See Section IV, B2, 4, 5 & 6.

Side Yard. For buildings or parts of buildings used for residential purposes, the side yard regulations of Residence-Agricultural District shall apply; otherwise a side yard, if provided, shall not be less than ten (10) feet in width.

Setback. Where parts of the frontage are designated on the District Map as Residence-Agricultural District and Light Industrial District, the setback regulation of Residence-Agricultural District shall apply to the Light Industrial District.

Rear yard. There shall be a rear yard having a minimum depth of twenty-five (25) feet for a building two (2) stories or less in height. For each additional story or fractional story in height, the depth of such rear yard shall be increased three (3) feet. See Section IV, A2, 8, B5, 7, 8 & 9. Lot Area Per Family. Every building or part of a building hereafter erected or structurally altered for residential purposes shall provide a lot area of not less than ten thousand (10,000) square feet per family. See Section IV, A2 & B6.

Vision Clearance. There shall be a vision clearance of not less than ten (10) feet extending from the curb level to the ceiling line of the ground floor, but in no case shall such vision clearance be less than twelve (12) feet high.

Auto Parking. Every building hereafter erected or structurally altered shall provide motor vehicle parking space with hard usable surface off the public street in the ratio of two-hundred (200) square feet of area for each five (5) persons employed on the premises, together with provisions for ingress and egress to the public street or alley.

#### Section X Heavy Industrial District

Use. In the Heavy Industrial District, unless otherwise provided in this ordinance buildings or land may be used for any purposes except the following:

- (1) Residential, educational or institutional uses, except a dwelling house for a watchman or caretaker employed on the premises.
- (2) Uses in conflict with any of the State of Wisconsin or any ordinances of the City of Augusta governing nuisances.
- (3) Any of the following uses unless the location of such use has been approved in writing by the Board of Appeals after investigation and public hearing:
  - (1) Abattoirs, except for slaughter of poultry.
  - (2) Acid Manufacture.
  - (3) Cement, lime, gypsum or plaster of paris manufacture. (4) Distillation of bones.
  - (5) Explosives manufacture or storage.
  - (6) Fat rendering.
  - (7) Fertilizer manufacture.
  - (8) Garbage, rubbish, offal or dead animal reduction or dumping.
  - (9) Glue manufacture.
  - (10) Junk yards.
  - (11) Petroleum refining.
  - (12) Smelting of tin, copper, zinc or iron ores.

### (13) Stockyards.

#### Height and Area

In Heavy Industrial District the height of buildings, the minimum dimensions of yards and the minimum lot area per family shall be as follows:

**Height.** Buildings hereafter erected or structurally altered shall exceed neither sixty-five (65) feet nor five (5) stories in height. See Section IV, B2, 4, 5 & 6.

**Side Yard.** For buildings or parts of buildings used for residential purposes, the side yard regulation of the Residence-Agricultural District shall apply; otherwise a side yard, if provided, shall be not less than ten (10) feet in width.

**Setback.** Where parts of the frontage are designated on the District Map as Residence-Agricultural District and Heavy Industrial District, the setback regulations of the Residence-Agricultural District shall apply to the Heavy Industrial District.

**Rear Yard.** There shall be a rear yard having a minimum of twenty-five (25) feet for a building two (2) stories or less in height. For each additional story or fractional story in height, the depth of such rear yard shall be increased three (3) feet. See Section IV, A2, 8, B5, 7, 8 & 9.

**Lot Area Per Family.** Every building or part of a building hereafter erected or structurally altered for residential purposes shall provide a lot area of not less than ten thousand (10,000) square feet per family. See Section IV, A2 & B6.

**Vision Clearance.** There shall be a vision clearance of not less than ten (10) feet extending from the curb level to the ceiling line of the ground floor, but in no case shall vision clearance be less than twelve (12) feet high.

**Auto Parking.** Every building hereafter erected or structurally altered shall provide motor vehicle parking space with hard surface off the public street in the ratio of two-hundred (200) square feet of area for each five (5) persons employed on the premises, together with provisions for ingress from and egress to the public street or alley.

#### Section XI Board of Appeals

(1) A Board of Appeals is hereby established. The Board of Appeals shall consist of five (5) members appointed by the Mayor, subject to confirmation by the Common Council, for three (3) years, except that of those first appointed one (1) shall serve for one (1) year, two (2) for two (2) years, and two (2) for three years. The members shall serve without compensation and shall be removable by the Mayor for cause upon written charges and after public hearing. The Mayor shall designate one of the members Chairman. The Mayor shall appoint and alternate members for a term of three (3) years, who shall act with full power, only when a member of the Board of Appeals refuses to vote because of interest. Vacancies shall be filled for the unexpired terms of members whose terms become

vacant. The Board of Appeals may employ a Secretary and other employees.

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

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

(4) Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Augusta affected by any decision of the Building Inspector. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the officers from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof. The officers from whom the appeal is taken shall forthwith transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest, and shall decide the same within a reasonable time.

#### Powers of the Board of Appeals

The Board of Appeals shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector.

(2) To hear and decide special exceptions to the terms of this ordinance upon which the Board of Appeals is required to pass.

(3) To authorize, upon appeal in specific cases, such variance from the terms of this ordinance as will not be contrary to public interest, where, owing to special conditions peculiar to a specific lot or tract of land, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

(4) Permit the erection and use of a building or premises in any location, subject to appropriate conditions and safeguard in harmony with the general purposes of this ordinance, for such public utility purposes which are reasonably necessary for public convenience and welfare.

(5) The Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall

have all the powers of the Building Inspector. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this ordinance.

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

(a) Grant a permit for a temporary building for commerce or industry in the Residence-Agricultural District which is incidental to the residential development, such permit to be issued for a period of not more than one (1) year.

(b) Grant a permit for the extension of a district boundary for a distance of not more than twenty-five (25) feet only where the boundary of a district divides a lot in a single ownership at the time of the adoption of this ordinance.

(c) By special permit, after due notice and public hearing, authorize the location of any of the following buildings or uses in any district from which they are excluded by this ordinance provided that such building or use shall comply with all other regulations in the district in which it is proposed to be relocated.

(1) Private clubs and lodges excepting those the chief activity of which is a service customarily carried on as a business.

(2) Hospitals and clinics.

(3) Institutions of philanthropic or eleemosynary nature.

(4) Cemeteries.

(5) Storage garage or parking area in connection with a housing development project or multiple family dwelling.

(6) Sewage disposal plants.

(d) Interpret the provisions of this ordinance in such a way as to carry out the intent and purpose of the plan as shown on the District Map accompanying and made a part of this ordinance, where the street layout actually on the ground varies from the street layout on the aforesaid map.

(e) The Board of Appeals shall have the power to call on any other city department for assistance in the performance of its duties; and it shall be the duty of such other departments to render such assistance as may be reasonably required.

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

(8) In exercising the foregoing powers the Board of Appeals may appropriate cases, establish suitable

conditions and safeguards in harmony with the general purpose and intent of this ordinance.

## Section XII Changes and Amendments

(1) The Common Council may from time to time on its own motion or on petition after first submitting the proposal to the City Plan Commission, amend, supplement, or change the district boundaries or the regulations herein or subsequently established upon giving at least ten (10) days notice, by the publication in the official paper at least one (1) time in such ten (10) days, of the proposed amendment, supplement or change and of hearing thereon, and opportunity to any person interested to be heard. Written notice of the date, time, place and purpose of the hearing shall be mailed by first class mail to the owners of all property within 250 feet of the property described in the application. (Adopted July 9, 2002)

In case of protest against such change duly signed and acknowledged by the owners of twenty percent (20%) or more either of the areas of land included in such proposed amendment, supplement or change, or by the owners of twenty percent (20%) or more of the area of land included in such proposed amendment, supplement or change, or by the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet from the street frontage of such opposite land, such amendment, supplement or change shall not become effective except by the favorable vote of three-fourths (3/4) of the members of the Common Council.

## Section XIII Violations and Penalties

Any person, firm or corporation who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance shall, upon conviction, forfeit not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00) for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall have their driving privileges suspended for a period of up to five (5) years.

## Section XIII(A) Floodplain and Shoreland-Wetland Zoning

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### 1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

#### 1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.

#### 1.2 FINDING OF FACT

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

#### 1.3 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;

I. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

II. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

#### 1.4 TITLE

This ordinance shall be known as the Floodplain Zoning Ordinance for Augusta, Wisconsin.

#### 1.5 GENERAL PROVISIONS

##### (1) AREAS TO BE REGULATED

This ordinance regulates all areas that would be covered by the regional flood or base flood.

Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

##### (2) OFFICIAL MAPS & REVISIONS

The boundaries of all floodplain districts are designated as floodplains or A Zones on the maps listed below and the revisions in the City of Augusta Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the City Clerk, City of Augusta. If more than one map or revision is referenced, the most restrictive information shall apply.

OFFICIAL MAPS : Based on the Eau Claire County Flood Insurance Study FIS dated (February 2009) volume numbers 55035CV000A.)

(a) Eau Claire Flood Insurance Rate Map (FIRM), panel number (55035C0300E and 55035C0325E), dated (February 18, 2009); with corresponding profiles that are based on the Flood Insurance Study (FIS);

Approved by: The DNR and FEMA

##### (3) ESTABLISHMENT OF DISTRICTS

The regional floodplain areas are divided into three districts as follows:

(a) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.

(b) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.

(c) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

#### (4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below.

(a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

(b) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on site inspection and any information provided by the Department.

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 8.1 (6).

#### (5) REMOVAL OF LANDS FROM FLOODPLAIN

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0.

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

#### 6) COMPLIANCE

Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

#### (7) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022,

Stats., applies.

#### (8) ABROGATION AND GREATER RESTRICTIONS

(a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

#### 9) INTERPRETATION

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

#### (10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

#### (11) SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

#### (12) ANNEXED AREAS FOR CITIES AND VILLAGES

The Eau Claire County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

### (13) GENERAL DEVELOPMENT STANDARDS

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

#### 2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

##### 2.1 HYDRAULIC AND HYDROLOGIC ANALYSES

(1) Except as allowed in par. (3) below, no floodplain development shall:

(a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or

(b) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.

(3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.0.

Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

##### 2.2 WATERCOURSE ALTERATIONS

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional

offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

### 2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. 8.0.

### 2.4 PUBLIC OR PRIVATE CAMPGROUNDS

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Department of Health and Family Services.
- (2) A land use permit for the campground is issued by the zoning administrator.
- (3) The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
- (6) Only camping units are allowed.
- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to

assure compliance with the terms of this section.

(10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 3.0 or s. 4.0 for the floodplain district in which the structure is located.

(11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.

(12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

### 3.0 FLOODWAY DISTRICT (FW)

#### 3.1 APPLICABILITY

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.4.

#### 3.2 PERMITTED USES

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if

they are not prohibited by any other ordinance;  
they meet the standards in s. 3.3 and 3.4; and  
all permits or certificates have been issued according to s. 7.1:

(1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).

(4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.

(5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).

(6) Functionally water dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.



(7) Public utilities, streets and bridges that comply with s. 3.3(3).

### 3.3 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS

#### (1) GENERAL

(a) Any development in floodway areas shall comply with s. 2.0 and have a low flood damage potential.

(b) Applicants shall provide the following data to determine the effects of the proposal according to s. 2.1:

1. A cross section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

2. An analysis calculating the effects of this proposal on regional flood height.

(c) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.

#### (2) STRUCTURES

Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

(a) The structure is not designed for human habitation and does not have a high flood damage potential.

(b) It must be anchored to resist flotation, collapse, and lateral movement;

(c) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and

(d) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

#### (3) PUBLIC UTILITIES, STREETS AND BRIDGES

Public utilities, streets and bridges may be allowed by permit, if:

(a) Adequate floodproofing measures are provided to the flood protection elevation; and

(b) Construction meets the development standards of s. 2.1.

#### (4) FILLS OR DEPOSITION OF MATERIALS

Fills or deposition of materials may be allowed by permit, if:

(a) The requirements of s. 2.1 are met;

(b) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;

(c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(d) The fill is not classified as a solid or hazardous material.

#### 3.4 PROHIBITED USES

All uses not listed as permitted uses in s. 3.2 are prohibited, including the following uses:

(1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;

(2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;

(5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(6) Any solid or hazardous waste disposal sites;

(7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;

(8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

## 4.0 FLOODFRINGE DISTRICT (FF)

### 4.1 APPLICABILITY

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.4.

### 4.2 PERMITTED USES

Any structure, land use, or development is allowed in the floodfringe district if the standards in s. 4.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 7.1 have been issued.

### 4.3 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS

S. 2.1 shall apply in addition to the following requirements according to the use requested.

#### (1) RESIDENTIAL USES

Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;

(a) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;

(b) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

(c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par.

(d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:

1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

## (2) ACCESSORY STRUCTURES OR USES

(a) Except as provided in par.(b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

(b) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of Sections 3.3 (2) (a),(b),(c) and (d) and 4.3 (5) below.

## (3) COMMERCIAL USES

Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

## (4) MANUFACTURING AND INDUSTRIAL USES

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. 7.5. Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

## (5) STORAGE OF MATERIALS

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

## (6) PUBLIC UTILITIES, STREETS AND BRIDGES

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

(a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with s. 7.5 to the flood protection elevation;

(b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed

to withstand flood forces to the regional flood elevation.

#### (7) SEWAGE SYSTEMS

All on site sewage disposal systems shall be floodproofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

#### (8) WELLS

All wells shall be floodproofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

#### (9) SOLID WASTE DISPOSAL SITES

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

#### (10) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this ordinance.

#### (11) MANUFACTURED HOMES

(a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

(b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

1. have the lowest floor elevated to the flood protection elevation; and
2. be anchored so they do not float, collapse or move laterally during a flood

(c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 4.3(1).

#### (12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 4.3 (11)(b) and (c). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

## 5.0 GENERAL FLOODPLAIN DISTRICT (GFP)

### 5.1 APPLICABILITY

The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.

### 5.2 PERMITTED USES

Pursuant to s. 5.4, it shall be determined whether the proposed use is located within a floodway or floodfringe area.

Those uses permitted in floodway (s. 3.2) and floodfringe areas (s. 4.2) are allowed within the general floodplain district, according to the standards of s. 5.3, provided that all permits or certificates required under s. 7.1 have been issued.

### 5.3 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

S. 3.0 applies to floodway areas, s. 4.0 applies to floodfringe areas. The rest of this ordinance applies to either district.

### 5.4 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

(1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;

(2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:

(a) A typical valley cross section showing the stream channel, the floodplain adjoining each side of the channel, the cross sectional area to be occupied by the proposed development, and all historic high water information;

(b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;

(c) Profile showing the slope of the bottom of the channel or flow line of the stream;

(d) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(3) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 7.1(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

## 6.0 NONCONFORMING USES

### 6.1 GENERAL

#### (1) APPLICABILITY

If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

(a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;

(c) The municipality shall keep a record which lists all nonconforming uses and nonconforming

structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

(d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

(e) 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

2. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

(f) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used.

## 6.2 FLOODWAY AREAS

(1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

(a) Has been granted a permit or variance which meets all ordinance requirements;

(b) Meets the requirements of s. 6.1;

(c) Will not increase the obstruction to flood flows or regional flood height;

(d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation;

(e) If any part of the foundation below the flood protection elevation is enclosed, the following



standards shall apply:

1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
4. The use must be limited to parking or limited storage.

(2) No new on site sewage disposal system, or addition to an existing on site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.

(3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

### 6.3 FLOODFRINGE AREAS

1. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 4.3, except where s. 6.3(2) is applicable.

2. Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s.7.3 may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- a. No floor is allowed below the regional flood elevation for residential or commercial structures;
- b. Human lives are not endangered;
- c. Public facilities, such as water or sewer, will not be installed;
- d. Flood depths will not exceed two feet;

- e. Flood velocities will not exceed two feet per second; and
- f. The structure will not be used for storage of materials as described in s. 4.3(6).

3. If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:

- a. Meets all other regulations and will be granted by permit or variance;
- b. Does not exceed 60 square feet in area, and
- c. In combination with other previous modifications or additions to the building, does not exceed 50% of the present equalized assessed value of the building.

4. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

5. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

## 7.0 ADMINISTRATION

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

### 7.1 ZONING ADMINISTRATOR

(1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

(a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(b) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.

(bm) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

(c) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;
2. Documentation of certified lowest floor and regional flood elevations for floodplain development;

3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.

4. All substantial damage assessment reports for floodplain structures.

(d) Submit copies of the following items to the Department Regional office:

1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

2. Copies of any case by case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.

3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

Note: Information on conducting substantial damage assessments is available on the DNR website <http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>

(e) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(f) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

## (2) LAND USE PERMIT

A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

### (a) GENERAL INFORMATION

1. Name and address of the applicant, property owner and contractor;

2. Legal description, proposed use, and whether it is new construction or a modification;

### (b) SITE DEVELOPMENT PLAN

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

1. Location, dimensions, area and elevation of the lot;

2. Location of the ordinary highwater mark of any abutting navigable waterways;

3. Location of any structures with distances measured from the lot lines and street center lines;
4. Location of any existing or proposed on site sewage systems or private water supply systems;
5. Location and elevation of existing or future access roads;
6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study ♦ either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and
9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s. 3.3(1).

(c) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
  - a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
  - b. A map showing location and details of vehicular access to lands outside the floodplain; and
  - c. A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(d) EXPIRATION

All permits issued under the authority of this ordinance shall expire 180 days after issuance.

(3) CERTIFICATE OF COMPLIANCE

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

a. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;

b. Application for such certificate shall be concurrent with the application for a permit

c. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

d. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of s. 7.5.

#### (4) OTHER PERMITS

The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

#### 7.2 ZONING AGENCY

(1) The Planning Commission shall:

(a) oversee the functions of the office of the zoning administrator; and

(b) review and advise the Governing body on all proposed amendments to this ordinance, maps and text.

(2) This zoning agency shall not

(a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or

(b) amend the text or zoning maps in place of official action by the Governing body.

#### 7.3 BOARD OF ADJUSTMENT/APPEALS

The Board of Adjustment/Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

#### (1) POWERS AND DUTIES

The Board of Adjustment/Appeals shall:

(a) Appeals Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

(b) Boundary Disputes Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

(c) Variances Hear and decide, upon appeal, variances from the ordinance standards.

## (2) APPEALS TO THE BOARD

(a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

## (b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice The board shall:

- a. Fix a reasonable time for the hearing;
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
- c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

2. Hearing Any party may appear in person or by agent. The board shall:

- a. Resolve boundary disputes according to s. 7.3(3).
- b. Decide variance applications according to s. 7.3(4).
- c. Decide appeals of permit denials according to s. 7.4.

(c) DECISION: The final decision regarding the appeal or variance application shall:

1. Be made within a reasonable time;
2. Be sent to the Department Regional office within 10 days of the decision;
3. Be a written determination signed by the chairman or secretary of the Board;
4. State the specific facts which are the basis for the Board's decision;

5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

### (3) BOUNDARY DISPUTES

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

(a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

(b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.

(c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0.

### (4) VARIANCE

(a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
3. The variance is not contrary to the public interest; and
4. The variance is consistent with the purpose of this ordinance in s. 1.3.

(b) In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

1. The variance may not cause any increase in the regional flood elevation;
2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;

3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(c) A variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district.
2. Be granted for a hardship based solely on an economic gain or loss.
3. Be granted for a hardship which is self created.
4. Damage the rights or property values of other persons in the area.
5. Allow actions without the amendments to this ordinance or map(s) required in s. 8.1.
6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

#### 7.4 TO REVIEW APPEALS OF PERMIT DENIALS

(1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:

- (a) Permit application data listed in s. 7.1(2).
- (b) Floodway/floodfringe determination data in s. 5.4.
- (c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator.
- (d) Other data submitted with the application, or submitted to the Board with the appeal.

(2) For appeals of all denied permits the Board shall:

- (a) Follow the procedures of s. 7.3;
- (b) Consider zoning agency recommendations; and
- (c) Either uphold the denial or grant the appeal.



(3) For appeals concerning increases in regional flood elevation the Board shall:

(a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

(b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

## 7.5 FLOODPROOFING

(1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.

(2) Floodproofing measures shall be designed to:

(a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(b) Protect structures to the flood protection elevation;

(c) Anchor structures to foundations to resist flotation and lateral movement; and

(d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

(2) Floodproofing measures could include:

(a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or

(b) Adding mass or weight to prevent flotation.

(c) Placing essential utilities above the flood protection elevation.

(d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.

(e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.

(f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

## 7.6 PUBLIC INFORMATION

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) All real estate transfers should show what floodplain zoning district any real property is in.

## 8.0 AMENDMENTS

### 8.1 GENERAL

The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Note: Consult the FEMA web site - [www.fema.gov](http://www.fema.gov) - for the map change fee schedule.

### 8.2 PROCEDURES

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by ss. 5.4 and 7.1(2).

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats.,

for counties.

(2) No amendments shall become effective until reviewed and approved by the Department.

(3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning administrator's visual on site inspections and other available information. (See s. 1.5(4).)

## 9.0 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$10 and not more than \$300, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

## 10.0 DEFINITIONS

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

1) "A ZONES" Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

2) "ACCESSORY STRUCTURE OR USE" A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

3) "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

5) "BUILDING" See STRUCTURE.

6) "BULKHEAD LINE" A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

7) "CAMPGROUND" - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

8) "CAMPING UNIT" - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

9) "CERTIFICATE OF COMPLIANCE" A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

10) "CHANNEL" ♦ A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

11) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

12) ♦ DECK ♦ ♦ An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

13) "DEPARTMENT" The Wisconsin Department of Natural Resources.

14) "DEVELOPMENT" Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

15) "DRYLAND ACCESS" A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

16) "ENCROACHMENT" Any fill, structure, equipment, building, use or development in the floodway.

17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the

lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads

18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" The federal agency that administers the National Flood Insurance Program.

20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

21) "FLOOD" or "FLOODING" ♦ A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

  } The overflow or rise of inland waters,

  } The rapid accumulation or runoff of surface waters from any source,

  } The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or

  } The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

22) "FLOOD FREQUENCY" The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

23) "FLOODFRINGE" That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

24) "FLOOD HAZARD BOUNDARY MAP" A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

25) "FLOOD INSURANCE STUDY" A technical engineering examination, evaluation, and determination

of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

26) "FLOODPLAIN" Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

27) "FLOODPLAIN ISLAND" A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

28) "FLOODPLAIN MANAGEMENT" Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

29) "FLOOD PROFILE" A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

30) "FLOODPROOFING" Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

31) "FLOOD PROTECTION ELEVATION" An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)

32) "FLOOD STORAGE" Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

33) "FLOODWAY" The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

34) "FREEBOARD" A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

35) "HABITABLE STRUCTURE" Any structure or portion thereof used or designed for human habitation.

36) "HEARING NOTICE" Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week

consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

37) "HIGH FLOOD DAMAGE POTENTIAL" Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

38) "HISTORIC STRUCTURE" - Any structure that is either:

    ) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,

    ) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,

    ) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or

    ) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

39) "INCREASE IN REGIONAL FLOOD HEIGHT" A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

40) "LAND USE" Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

41) "MANUFACTURED HOME" A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

43) "MUNICIPALITY" or "MUNICIPAL" The county, city or village governmental units enacting,

administering and enforcing this zoning ordinance.

44) NAVD or NORTH AMERICAN VERTICAL DATUM Elevations referenced to mean sea level datum, 1988 adjustment.

45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" Elevations referenced to mean sea level datum, 1929 adjustment.

46) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

47) "NONCONFORMING STRUCTURE" An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

48) "NONCONFORMING USE" An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

49) "OBSTRUCTION TO FLOW" Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

50) "OFFICIAL FLOODPLAIN ZONING MAP" That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.

51) "OPEN SPACE USE" Those uses having a relatively low flood damage potential and not involving structures.

52) "ORDINARY HIGHWATER MARK" The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

53) "PERSON" An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

54) "PRIVATE SEWAGE SYSTEM" A sewage treatment and disposal system serving one structure with



a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

55) "PUBLIC UTILITIES" Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

56) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

57) "REGIONAL FLOOD" A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

58) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

59) "STRUCTURE" Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

60) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.

61) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

62) "UNNECESSARY HARDSHIP" Where special conditions affecting a particular property, which were not self created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

63) "VARIANCE" An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

64) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

65) "WATERSHED" The entire region contributing runoff or surface water to a watercourse or body of water.

66) "WATER SURFACE PROFILE" A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

66) "WELL" means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

#### Section XIV Annexation

All territory annexed to the City of Augusta shall automatically become a part of the Residence-Agricultural

District until definite boundaries and regulations are recommended by the City Plan Commission and adopted by the common council; provided, however, that the common council shall adopt definite boundaries and district regulations within ninety (90) days from the date of the annexation.

SECTION 1. Title of Ordinance. This Ordinance shall be known, cited and referred to as the Wellhead Protection Ordinance (hereinafter referred to as WHP Ordinance.)

SECTION 2. Purpose Authority and Application.

(1) Residents in the City of Augusta depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this WHP Ordinance is to institute land use regulations and restrictions to protect the City's Municipal water supply and well fields, and to promote the health, safety and general welfare of the residents of the City of Augusta.

(2) Statutory authority of the City to enact these regulations was established by the Wisconsin Legislature in ss. 62.23(7)(a) and (c), Wis. Stats. Under these statutes, the City has the authority to enact this ordinance, effective in the incorporated areas of the City, to encourage the protection of groundwater resources.

(3) The regulations specified in this WHP Ordinance shall apply within the City's corporate limits.

### SECTION 3. Definitions.

- (1) Aquifer. **Aquifer** means a saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.
- (2) Existing facilities. **Existing facilities** means current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the City's wellhead protection area that lies within the corporate limits of the City. Existing facilities include but are not limited to the type listed in the Department of Natural Resources form 3300-215, Public Water Supply Potential Contaminant Use Inventory Form which is incorporated herein as if fully set forth.
- (3) Recharge Area. **Recharge area** means the land area which contributes water to a well by infiltration of water into the subsurface and movement with groundwater toward the well. This area extends beyond the corporate limits of the City of Augusta.
- (4) Groundwater Protection Overlay District. **Groundwater Protection Overlay District** means that portion of the recharge area for the city wells that lies within the city limits as shown in the map attached hereto as Exhibit **A** and incorporated herein as if fully set forth.
- (5) Well Field. **Well field** means a piece of land used primarily for the purpose of supplying a location for construction of wells to supply a municipal water system.

### SECTION 4. Groundwater Protection Overlay District.

- (1) Separation Distances. The following minimum separation distances shall be maintained within the Groundwater Protection Overlay District.
  - (a) Fifty feet between a well and storm sewer main.
  - (b) Two hundred feet between a well and any sanitary sewer main, lift station or single family residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current American Waterworks Association (AWWA) 600 specifications. In no case may the separation distance between a well and sanitary sewer main be less than 50 feet.
  - (c) Four hundred feet between a well and a septic tank receiving less than 8,000 gallons per day, a cemetery or a storm water drainage pond.
  - (d) Six hundred feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce (hereafter Commerce) or its designated agent under s. Comm 10.10, Wis. Adm. Code.
  - (e) One thousand feet between a well and land application of municipal, commercial or industrial waste; industrial, commercial or municipal waste water lagoons or storage structures; manure stacks

or storage structures; and septic tanks or soil adsorption units receiving 8,000 gallons per day or more.

(f) Twelve hundred feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; coal storage area; salt of deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from Commerce or its designated agent under s. Comm 10.10, Wis. Adm. Code; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

(2) Three Overlay District Zones. This District is hereby divided into Zone A, B, and C.

(a) Zone A. Identified as the primary source of water for the municipal well aquifer and the area most likely to transmit groundwater contamination to the municipal wells. Zone A is more restrictive than Zones B or C.

(b) Permitted uses ♦ Zone A. The following uses are permitted uses within the groundwater protection Zone A. Uses not listed shall be considered prohibited uses:

1. Parks, provided there is no on-site waste disposal or fuel storage tank Facilities associated with this use.
2. Playgrounds.
3. wildlife areas.
4. Non-motorized trails, such as bike, skiing, nature and fitness trails.
5. Residential, commercial and industrial property, which is municipally sewered, and free of flammable and combustible liquid and underground storage tanks (UST5)

(c) Zone B. Identified as a secondary source of water for the municipal wells because of the large cone of depression and a greater time of travel. Zone B is less restrictive than Zone A, but more restrictive than Zone C.

(d) Permitted Uses ♦ Zone B. The following uses are permitted uses within the groundwater protection Zone B. Uses not listed shall be considered prohibited uses:

1. All uses listed as permitted uses in Zone A.
2. Modified agricultural activities, including any crop free of pesticides and/or synthetic fertilizers.
3. Aboveground petroleum product storage tanks less than 660 gallons. All new or replaced tanks shall be installed in compliance with ch. Comm 10, Wis. Adm. Code.
4. Residential, commercial and industrial property, which is municipally sewered or has a state-approved sewer and septic system.

(e) Zone C. Identified as the Groundwater Protection Overlay District, excluding those areas within

Zone A and Zone B.

(f) Permitted Uses ♦♦ Zone C. All uses listed as permitted in Zone A and Zone B. Request may be made to the Utilities Commission to permit additional land uses in Zone C.

(g) Mapping. The location and boundaries of the zoning districts established by this Ordinance are set forth on the attached Exhibit ♦♦A♦♦ which is incorporated herein and hereby made a part of this Ordinance. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Ordinance as though fully set forth and described herein.

#### SECTION 5. Review of Permit Application.

(1) The City of Augusta Utilities Commission shall review all requests for approval of permits for land uses in the Groundwater Protection Overlay District. All determinations shall be made by the City of Augusta Utilities Commission within sixty (60) days of any request for approval, provided however, that this sixty (60) day period of limitation may be extended by the City of Augusta Utilities Commission for ♦♦good cause♦♦, as determined in the sole and absolute discretion of the City of Augusta Utilities Commission.

(2) Upon reviewing all requests for approval, the City of Augusta Utilities Commission shall consider all of the following factors:

(a) The City♦♦s responsibility, as a public water supplier, to protect and preserve the health, safety and welfare of its citizens.

(b) The degree to which the proposed land use practice activity or facility may seriously threaten or degrade groundwater quality in the City of Augusta or the City♦♦s recharge area.

(c) The economic hardship, which may be faced by the landowner if the application is denied.

(d) The availability of alternative options to the applicant, and the cost, effect and extent of availability of such alternative options.

(e) The proximity of the applicant♦♦s property to other potential sources of contamination.

(f) The then existing condition of the City♦♦s groundwater public water wells and well fields, and the vulnerability to further contamination.

(g) The direction of flow of groundwater and other factors in the area of the applicant♦♦s property, which may affect the speed of the groundwater flow, including topography, depth of soil, extent of aquifer, depth to water table and location of private well.

(h) Any other hydro geological data or information, which is available from any public or private agency or organization.

(i) The potential benefit, both economic and social, from the approval of the applicant♦♦s request for a permit.

(3) Any exemptions granted will be made conditional and may include environmental and safety monitoring which indicates whether the facility may be emitting any releases or harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs. The City of Augusta Utilities Commission may require that a bond be posted for future monitoring and cleanup costs if deemed necessary at the time of granting an exemption.

(4) The applicant shall be solely and exclusively responsible for any and all costs associated with the application, including all of the following:

(a) The cost of an environmental impact study if so required by the City of Augusta or its designee.

(b) The cost of groundwater monitoring of groundwater wells if required by the City of Augusta or its designee.

(c) The costs of an appraisal for the property of other property evaluation expense if required by the City of Augusta or its designee.

(d) The costs of City's employee's time associated in any way with the application based of the hourly rate paid to the employee multiplied by a factor, determined by the City, representing the City's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.

(e) The cost of City equipment employed.

(f) The cost of mileage reimbursed to the City employees.

#### SECTION 6. Requirements for Existing Facilities and Land Uses.

(1) Existing facilities shall provide copies of all Federal, State and local facility operation approvals or certificates and ongoing environmental monitoring results to the City of Augusta.

(2) Existing facilities shall provide additional environmental or safety monitoring as deemed necessary by the City of Augusta Utilities Commission, specifically including the production of any and all environmental statements detailing the extent of chemical use and storage on the property.

(3) Existing facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.

(4) Existing facilities shall have the responsibility of devising and/or filing with the City of Augusta, a contingency plan satisfactory to the Utility Commission for the immediate notification of the appropriate City of Augusta officers in the event of an emergency.

(5) Property owners with an existing agricultural use shall be exempt from requirements of this

Ordinance as they relate to restrictions on agricultural uses, provided however, that such exemption shall only apply to the property owners in existence at the time of passage of the Ordinance and this exemption shall not constitute a covenant running with the land.

#### SECTION 7. Enforcement and penalties.

(1) In the event an individual or facility causes the release of any contaminants which endanger the Groundwater Protection Overlay District, the individual/facility causing said release shall immediately cease and desist, and provide clean-up satisfactory to the City of Augusta.

(2) The individual/facility shall be responsible for all costs of cleanup and the City of Augusta consultant fees at the invoice amount plus administrative costs for oversight, review and documentation, including all of the following:

(a) The cost of City employees' time associated in any way with the cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the City, representing the City's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits.

(b) The cost of City equipment employed.

(c) The cost of mileage reimbursed to the City employees attributed to the cleanup.

(3) Following any such discharge, the City may require additional test monitoring or other requirements as outlined in Section 6 and 7 herein.

(4) Violations: It shall be unlawful to construct or use any structure, land or water in violation of this ordinance. Any person who is specifically damaged by such violations may institute appropriate action or proceeding to enjoin a violation of this ordinance.

(5) Penalties. Any person, firm or corporation who fails to comply with the provisions of this ordinance, shall, upon conviction thereof, forfeit not less than one hundred and 00/100 dollars (\$100.00) nor more than five thousand and 00/100 (\$5,000.00) plus the costs of the prosecution for each violation, and in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days, or in the alternative, shall have such costs added to their real estate property tax bill as a lien against the property. Each day a violation exists or continues shall constitute a separate offense.

SECTION 8. Severability Clause. If any section, subsection, sentence, clause or paragraph or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or other applicable administrative or governing body, such decision shall not effect the validity of any other section, subsection, sentence, clause, paragraph or phrase or portion thereof. The Common Council of the City of Augusta hereby declares that they would have passed this Ordinance and each section, subsection, sentence, clause, paragraph or phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses, paragraphs, or phrases may be declared invalid or unconstitutional. (Adopted this 9th day of August

2005)

(1) Purpose. The residents of the City of Augusta depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Ordinance is to protect municipal water supplies and to promote the public health, safety, and general welfare of the resident of the City of Augusta.

(2) Authority.

(a) This Chapter is created pursuant to §59.69(1). The provisions of Wis. Admin. Code ch. NR 811 are incorporated as if fully set forth herein.

(b) The regulation specified in this Chapter shall apply to the unincorporated areas of Eau Claire County and incorporated areas within the City of Augusta that lie within the recharge area of a municipal water supply, and are in addition to the requirements in the underlying zoning district. If there is a conflict between this Chapter and the zoning code, in general, the more restrictive provision shall apply.

(3) Definitions. The following definitions shall apply in this Chapter unless the context dictates otherwise:

(a) **Animal confinement facilities** means locations of confinement of livestock at a density exceeding 4 animal units per acre, except as applies to livestock production facilities, which incorporate areas for manure application (at rates not to exceed the nutrient requirements of the crops grown thereon) as an integral part of the operation.

(b) **Animal waste storage facility** means a waste storage impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure.

(c) **Aquifer** means a saturated, permeable geologic hydrostratigraphic unit that contains and will yield useable quantities of water.

(d) **Cone of Depression** means the area around a well, in which the water level has been lowered at least one-tenth of a foot by pumping of the well.

(e) **Department** means the City of Augusta Water Commission and or Eau Claire County Department of Planning and Development.

(f) **Feedlot** means an open lot or enclosed building in which poultry or livestock are closely confined in excess of 45 days per year for the purpose of feeding or holding and where such confinement does not or is not intended to provide natural pasture for animals.

(g) **Ground Water** means water occurring in saturated geologic material below the water table.

(h) **Municipal water supply** means the municipal water supplies for the City of Augusta, in Eau Claire County, as governed by Wis. Admin. Code ch. NR811.



(i) ◆Nutrient Management◆ means managing the amount, form placement, and timing of applications of plant nutrients.

(j) ◆Pasture◆ means grazing animals, on growing vegetation, with no supplemental feed, exceeding 4 animal units (or manure production equivalent as referenced in the Eau Claire County Technical Guide, specification 590) per acre; also rotation grazing systems (designed to periodically exceed 3 head per acre) which comply with the standards of the Eau Claire County Technical Guide adopted by the Eau Claire County Land Conservation Commission.

(k) ◆Person◆ means an individual, partnership, association, corporation, municipality or state agency, or other legal entity.

(l.) ◆Recharge area◆ means the area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.

(m) ◆Ten year time of travel◆ means the recharge area for which it is determined or estimated through hydrological analysis that groundwater will take ten years to reach a pumping well.

(n) ◆Thirty-day time of travel◆ means the recharge area for which it is determined or estimated through hydrological analysis that groundwater will take thirty days to reach a pumping well.

(o) ◆Water table◆ means the surface in geological material at which the pore water pressure is atmospheric.

(p) ◆Well field◆ means a piece of land used primarily for the purpose of locating wells to supply a municipal water system.

(q) ◆Zone of saturation◆ means geologic material that is saturated with water and constitutes groundwater.

(4) Groundwater Protection Overlay district. A groundwater protection overlay district shall only be created at the request of a municipality to institute land use regulations and restriction within a defined area, which contributes water directly to a municipal water supply and promotes public health, safety, and welfare. The district is intended to protect the groundwater recharge area for the existing and future municipal water supply from contamination.

(a) The Boundaries of the groundwater protection overlay district shall be shown on the map ◆Groundwater Protection Districts for Public Water Supply Recharge Areas in Eau Claire County.◆ This map will be an overlay of the ◆Official Zoning 4aps of Eau Claire County, Wisconsin◆ as maintained by the department.

(b) Whenever a municipality establishes the location of a new well or modifies an existing well resulting in a change to the public water supply recharge area for the municipality which extends into the unincorporated areas of the county, the municipality shall notify the department and submit a written request to the department to adopt a groundwater protection overlay district which shall

include:

(1) A 1/4 inch equals 2,000 feet (1:24,000) or larger scale map shall be used for municipal boundaries of the proposed wellhead protection zones, which conform the provisions in this Chapter.

(2) A report describing the background information, research, and methodology used to develop the wellhead protection zones.

(3) A wellhead protection plan for the well or wells within the proposed district.

(4) An existing wellhead protection ordinance for the well or wells within the proposed wellhead protection district, effective within the incorporated areas of the municipality.

(5) A list of tax parcels, any part of which falls within the proposed wellhead protection district.

(6) An inventory of all existing facilities which may cause or threaten to cause groundwater contamination within the proposed wellhead protection district. The inventory shall include:

(1) The county tax parcel number of each facility and the name and telephone number of a facility contact.

(2) A list of the uses, activities, materials, structures, and facility type which may cause or threaten to cause groundwater contamination for each existing facility.

(C) The county board shall create a groundwater protection overlay district, with the map **Groundwater Protection Districts for Public Water Supply Recharge Areas in Eau Claire County** after receipt of recommendations made by the groundwater advisory committee and the committee on planning and development.

(5) Zones The groundwater protection overlay district is divided into two zones. All zone boundaries shall be normalized to road centerlines, railways, surface water features, and the public land survey line of 1/2, 1/4, 1/8, 1/16 section lines. Each zone is described below as follows with permitted and prohibited uses:

(A) Zone 1 is the area of land, which contributes the water to a municipal well in question to the 30-day time of travel

(1) Permitted uses:

a. Public and private parks, playgrounds and beaches, provided there are no on-site wastewater disposal systems or holding tanks and follows an approved Nutrient Management plan

b. Wildlife and natural and woodland areas

c. Biking, hiking, skiing, nature, equestrian, and fitness trails

d. Residential areas which are municipally sewerred

e. Routine tillage, planting, and field management operations in support of agricultural crop production where nutrients from legume, manure, and commercial sources are accounted for and credited toward crop nutrient needs. The combination of all nitrate sources applied or available on individual fields may not exceed University of Wisconsin Soil Test Recommendations for the field

(2) Prohibited Uses:

a. Above and below ground hydrocarbon, petroleum, or hazardous chemical storage tanks

b. Cemeteries

c. Chemical manufactures (Standard Industrial Classification Major Group 28)

d. Storage of extremely hazardous substance, radioactive materials or substances listed in table 1, NR140 of the Wisconsin Administrative Code. (Extremely hazardous substances are identified by SARA/EPCRA criteria under 40 CFR Parts 302 and 355

e. Coal Storage

f. Dry Cleaners

g. Industrial lagoons and pits

h. Landfills and other solid waste facilities

i. Manure and animal waste storage facilities

j. Non-metallic earthen materials extraction sites

k. Pesticide and fertilizer dealer, transfer or storage

l. Railroad yards and maintenance stations

m. Rendering plants and slaughterhouses

n. Salt or deicing material storage

o. Salvage yards and junkyards

p. Septage or sludge spreading, storage or treatment

q. Septage, wastewater or sewage lagoons

r. Private on-site wastewater treatment systems or holding tanks unless replacing an existing private on-site wastewater treatment system

s. Stockyards and feedlots

t. Stormwater infiltration basins without pre-treatment, which is defined to include vegetation filtration and/or temporary detention basins

u. Motor vehicle services, including filling and service stations, repair, renovation, and body work

v. Wood preserving operations

(B) Zone 2. Zone 2 encompasses the area of land which contributes water to a municipal well at the line which contributes water to a municipal well at the line which delineates the 30-day time of travel and ends at the line delineating the 10-year time of travel to a municipal well.

(1) Permitted uses: The following uses are permitted in Zone 2:

(a) All uses that are permitted in Zone 1.

(2) Prohibited uses: All uses that are prohibited in Zone 1.

(6) Requirements for existing uses

(A) Existing uses which are listed as prohibited in a zone but exist on the effective date of this ordinance are grandfathered in and will be allowed to upgrade to facilitate or enhance groundwater protection. The department must approve the proposed upgrade plans and all required permits shall be issued before work is initiated. Expansion of a prohibited use is not allowed.

(B) Owners and operators of existing nonconforming uses which exist within a zone at the time of enactment of this Chapter shall provide copies of all current, revised, or new federal, state, and local facility operation approvals, permits, or certificates, operational safety plans, and on-going environmental monitoring results, to the county and the municipality with wells in the wellhead protection district.

(C) Owners and operators of existing nonconforming uses which exist within a zone at the time of enactment of this Chapter shall have the responsibility of devising, filing, and maintaining with county a current contingency plan which details how they intend to respond to any emergency which may cause or threaten to cause groundwater contamination that occurs at their facility, including notifying municipal, county, and state officials.

(7) Changing technology and uses not listed

(A) The uses prohibited by this Chapter are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by a particular use considered to be of a high risk for pollution to the ground water resource. As the technology of other

uses change to low or non-risk materials or methods and by petition from the user of that technology, the committee shall recommend removal of the use as a prohibited use and establish any performance standards that are deemed necessary.

(B) Any use not listed specifically as permitted in this Chapter is considered a prohibited use. Upon its own initiative or upon a request from a specific property owner, the committee on planning and development with recommendations from the groundwater advisory committee may recommend adding a use as a permitted or prohibited use to this Ordinance and establish any performance standards that are deemed necessary

#### (8) Administration

(A) The City hereby designates the department to administer and enforce this Ordinance. The department may seek the technical advice of the groundwater advisory committee in the administration and enforcement of this Ordinance.

(B) The department shall have the following duties in administering and enforcing this Ordinance as outlines in Chapter 18.31 as appropriate.

(C) The department staff may enter the premises of a property under the terms of this Ordinance in the performance of their duties or pursuant to a special inspection warrant issued under Wis. Stat. 66.122, in order to inspect those premises and to ascertain compliance with this Ordinance and permit or to investigate an alleged violation.

(D) Enforcement Authority. The department may issue a compliance order, field directive, suspension order, or termination order to assure compliance with a permit or the provisions of this Ordinance. Any permit revocation or stop work order shall remain in effect unless retracted by the department or by a court of general jurisdiction or until the activity is brought into compliance with this Ordinance. The department is authorized to refer any violation of this subchapter or a stop work order to the corporation counsel's office for commencement of further legal action.

#### (9) Penalties and Enforcement

(A) Penalties. Any person who violates, neglects or refuses to comply with or resists the enforcement of any of the provisions of this subchapter shall be subject to a forfeiture of not less than \$500 nor more than \$2500 per day plus cost of prosecution for each violation. Any violation includes failure to comply with any standard of this Ordinance or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.

(B) Enforcement of injunction. As a substitute or in conjunction with a forfeiture action, the City may seek enforcement of any part of this Ordinance by court actions, an injunction or restraining order, the cost of which shall be charged to the defendant in such action.

(C) Cleanup costs. The City may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover

the costs, together with the costs of prosecution. Any person who causes the release of any contaminants, which may endanger or contaminate a municipal water supply system, shall immediately cease such discharge and immediately initiate clean up satisfactory to the City and other state or federal agencies. The person who releases such contaminants have been released shall be jointly and severally responsible for the cost of cleanup, consultant, or other contractor fees, including all administrative costs for oversight, review, and documentation, including the city employees time, equipment, and mileage.

(10) Appeals At the written request of any aggrieved person or the department, the City of Augusta Planning Commission shall hold a public hearing and decide on the merits of appeal.

(A) Appeals shall follow the applicable sections as found in 18.31.02.

(B) Appeals shall be filed with the Planning Commission within 30 days after the date of written notice of the decision or the order of the department.

(C) All appeals shall be filed on applications provided by the department.

Enacted:

Roger Hahn \_\_\_\_\_

James Beesley \_\_\_\_\_

Wally Shong \_\_\_\_\_

Dean Bruder \_\_\_\_\_

Bernie Buttke \_\_\_\_\_

John Waugh \_\_\_\_\_

Augusta City Council

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2003.